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T E N  
Lectures  
ON THE  
OBLIGATION  
OF  
Humane Conscience.

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R E A D  
In the Divinity School at  
O X F O R D,  
In the Year, 1647.

---

*By that most Learned and Reverend Father in God,  
Doctor Robert Sanderson, Bishop of Lincoln. &c.*

---

*Translated by Robert Codrington, Master of Arts.*

---

L O N D O N,

Printed by *Tho. Leach*, and are to be sold by *John Mattins*,  
*James Allsry*, and *Tho. Dicus*, at the Sign of the  
Bell in *St. Pauls-Church Yard*, 1660.



TEN

# Lectures

ON THE

## ORIGIN

OF THE

OF THE

OF THE

OF THE

OF THE

OF THE



SEVERAL  
CASES  
OF  
CONSCIENCE  
Discussed In  
Ten Lectures  
IN THE  
DIVINITY SCHOOL  
AT  
OXFORD.

*By that most Learned and Reverend Father  
in God, Doctor Robert Sanderson,  
now Lord Bishop of Lincoln.*

LONDON,

Printed by Tho. Leach, and are to be sold by John Martin,  
James Allestry, and Tho. Dicus, at the Sign of the  
Bell in St. Pauls-Church-Yard, 1660.

SEVEN

CASE

CONSCIENCE

TESTIMONIES

DIVINITY SCHOOL

OXFORD

Printed by J. G. & Co. at the  
University Press, Oxford.

LONDON

Printed by J. G. & Co. at the  
University Press, Oxford.

To the most Noble Robert Boyle, Son to the  
Right Honourable Richard Earl of Cork, deceased,  
and Brother to Richard Earl of Cork now living.

Honourable S I R,

**T**His smal present whatsoever it is, coveteth to preferre it self to your Trust, and Patronage, and to come abroad into the world under the protection of your name. Most willingly therefore I do here make a tender of it unto you, who, as I understand by Fame, ( and in Subjects of worth, Fame is seldom found a Liar ) are not only Illustrious by the splendor of your Birth, but far more Illustrious by the nobility of a generous mind, by your love to Learning, your Humanity, Piety, and all manner of Virtue, howsoever to me living privately, and contentedly in a smal Cottage, and not much solicitous what is done abroad, especially as the times now are ) never known by your face, nor by your *name* until within these few Months, no nor as yet known unto me, but only by your *MUNIFICENCE*. Nevertheless I hope this poor gift will find some acceptance with you, because having already obtained my *Red of Liberty* you endeavour to enclose me again in my antient circle, and to draw me back to my discontinued exercise, by proposing to me some honest Salary by the excellently learned Mr. *Thomas Barlow*, chief Keeper of *Badleys Library* in the famous University of Oxford, It is indeed well known, that in this deplorable state of Civil and Ecclesiastical affairs, (if we may call

*The Epistle Dedicatory*

stasy, and a hideous confusion of all things) there are peradventure found one or two of a more refined clay, who either by their encouragment, or their bounty are careful to comfort the sad Muses, and the Retainers to them, of what soever condition, those especially who being Professors of true and Christian Philosophy are every where neglected, and dispised, as the *refuse* of the world: If any thing therefore (by the permission of the Almighty) shall hereafter be undertaken and published by me in this kind of writing, which pertaineth to moral Philosophy that may be either profitable to the Publick, or useful to any private man, for the better Institution of his life, and the framing of his manners, by the prescript of the Divine Law and Gospel, whether it be in the Latin tongue, or in the English, which I perceiye to be more acceptable of to many of our Nation, I do here willingly acknowledge, and freely proteste, that for the greatest part, it is due unto you, who were both the Author to me to undertake it, and an Assistant cheerfully to proceed in it: And do you, most worthy Sir, proceed to do good, that is, to do that which you do already, to adorn Learning, to favour learned men, to advance Piety, to procure you faithful friends at the charges of unfaithful *Mammon*, that so our of the abundance of good works sowed in this world, there may redound unto you, a most fruitful Harvest of eternal blessednesse in the world to come. *Amen.*

10 Cal. Decemb.

From Botheby Pannell  
Lincolnshire.





To the Courteous  
R E A D E R.

*Friendly Reader whosoever you are,*

**B**Efore you advance into the House it self, you are here in the first entrance to be encountered, and desired in some few things to suffer your self to be informed of the cause that chiefly compelled us to the publishing of these papers which here we represent unto you. I had rather indeed, if others had been of the same mind with me, that they should never have seen the light; for the proof whereof this may be one Argument, and of force enough, that part of these Lectures, written by me some years since, were never for the space of ten years, and more, reserved in any Desk, but lay in corners up and down amongst my rejected, as much as neglected papers; had I not another Argument of far greater force than the former, viz. The Imperfection of the worke, which of it self doth betray it self. For a Writer that understands himself, and makes provision for his Reputation, and Dignity, must carefully finish the work he hath begun, and not so much as think of sending it abroad before (to speak with Cicero) it be every where apt and polished, and made compleat, and perfect, in all the parts and numbers of it. For in vain from thence you may look for Praise, where you may think you come off very handsomely, if, for Praise, you deserve Pardon.

*What before? Were friends the cause of it? Who are*



## To the Reader.

accustomed to encourage and give more rains to those who of their own accord are running into those hazards, and to spur on others who draw back? I will not affirm this neither, for although I may grant that the exhortations, and desires of friends, (the common refuge of the greatest part of Scribes) may serve oftentimes for an honest excuse, yet they could never seem to me to be the just and allowable grounds for such a Cause. Nevertheless (as most frequently it is seen) there were not wanting some ergodictists, some Brain-Exacters who demanded of me, and (that I may use the words of Fabius) with daily and reproaching Importunities did esflagitate, that I would present those things to the eyes of all men to be read, which heretofore in reading were so grateful to their ears, but I who was not ignorant how acuter was the judgement of the eye than of the ear did constantly deny it; They, on the other side, were more instant with me, and more vehemently did urge me, and (as oft in like cases it comes to pass) they did gently chide me; But I, who was resolved to be obstinate, stood fixed to my self; for whatsoever they could object unto me, I was ready always to answer them, that a work begun (and not half of it, nor the third part of it peradventure hardly accomplished) was not rashly to be communicated to the publick; But they again were as ready to reply, Why cease you then? Why do you not set your self close unto your study, and put your last hand unto that work which your first hand hath so happily begun?

What shall I say for my self in this case? I am ashamed to confesse, and I may not be silent; I answered howsoever, (and what was too true indeed) that unless some Necessity did inforce me, of which I was not then capable (being out of the Readers place) it could not be. As a faint-hearted Soldier whom only Desperation makes valiant, grows then hot, and is fiercely carryed on unto the Fight when no subterfuge is left for him, so is my wit, give it leisure, space, and time,

# To the Reader.

time, nothing is done; The Quill in vain is vexed, my Horat.  
Sat. 3.  
mind is unsettled, it roams, and rambles, and degenerates in-  
to sloath. Use compulsion to it, and check it, it unites, and is  
entire, it is stirred up and recollecteth strength, and what  
force it hath, since there must be care and Industry, it puts  
it all forth at once, and in one word it doth that which is ne-  
cessary to be done; So the Beams of the Sun diffused in a  
free and open air, do so gently warm us, that we are hardly  
sensible of it, but being united and contracted into the round  
of a hollow Glasse, as into a Center, they do vehemently burn.  
Being by long use instructed from my youth to this age, I Pythag.  
aur Carr  
have learned how true is that Hemistich of Pythagoras  
--- ἀνάγκη γὰρ ἀνάγκης ἐγχεῖται, Performance is a  
near Neighbour, and dwelleth at the next door to Necessity.

And although this imperfection of a slothful mind may  
to many men appear to carry before it some show of modesty;  
yet it seems to me that it cannot be handsomely defended, un-  
less it be by this excuse, that it is ἐμψυχὲς καὶ οὐκ ἐμψυχὲς ἦσθ  
so born and bred up with some men ( and I am in the same  
number with them ) that in vain he laboureth, whosoever he  
is, that hopeth by any Art to correct it, or by industry to o-  
vercome it. But enough, and too much, of so unpleasing a  
Subject.

Peradventure you will demand ( for as yet we are come  
up to no certainty, and are returning back still where at first  
we were ) If as you say, you are so slow of your self, and  
so contumacious to your friends, from whence at last  
came this Edition? Certainly from nothing else but from  
this very Necessity of which but even now was our discourse,  
and which usurpeth so vast a Dominion over the affairs of  
men.

Λόγῳ γὰρ ἔσιν ἔκ ἐμῶ σοφῶν δ' ἔπῳ  
Δεινὴς ἀνάγκης ὁδὸν ἰχθεῖν πλέον.

For wise men speak it, and not only we,  
Nothing so strong as dire Necessitie.

Euripid.  
Helen.  
A&. 2.

## The Epistle.

But to hold you no longer in suspense; I will in a few words declare the whole business to you. All this contumacy was broken as it were at one blow, by Mr. James Alley, Book-seller of London, who in his Letter to me, did acquaint me that two Copies of these Lectures were brought unto him, and that he had them then in his own custody, in his own house; that he who brought them to him was in hand with him, that either by himself, or at least by his procurement, they should be printed, which he denyed to do without my consent; He warned me withal, there being other Copies abroad, it hardly could be prevented if I neglected it, but that they would be published by some one else, I not knowing of it; I did commend, nay I did love in a man, at that time utterly unknown unto me the candour of his mind and his reverent respect to Equity; especially being of their profession, who almost do make their gain their only business. I therefore wrote back unto him to send me one of the Copies, that seemed to him to be the fairest of the two, and the most perfect, and in the meantime I would consider with myself what was needful to be done. To be short, he sent it. I did read it, and examine it, ἐλκτοὰ πάντα καὶ ὁλὲν ὕμνῃς. Every Page was turned over, and nothing was found sound, nothing perfect; for besides the innumerable faults of the Transcriber, not a few things which in my first meditation were written by my self with too hasty a Pen, did seem, as they indeed ought, to be called back again to the Anvil and the Hammer. Hence I perceived I was to undergo a troublesome and tedious task, to write over the whole work anew, which nevertheless was to be endured. I endured it, and wrote it over, and did perfect it as I could, and (if no man be a Debtor beyond his power) as I ought; If not as I would, I require this one thing as reasonable, (nay as due unto him who doth as much as lies in his power) Pardon.

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THE END.





THE  
FIRST LECTURE.

In which the Definition of Conscience  
is propounded, and unfolded.

I COR. 2. 11.

*What Man knoweth the things of a Man, but  
the Spirit of Man which is in him.*

**L** Hat the power of Conscience is (a) <sup>re p<sup>a</sup> Mi</sup> <sup>longe,</sup> very great, either in the respect of Fear or Confidence, hath been of old declared by wise and learned Men, and more nearly and abundantly attested by the sense and the experience of all Men. It is therefore the more to be lamented that many (while greedily they imploy all their studies in the knowledge of things indifferent) are in so dark an ignorance in the knowledge of their own Consciences, notwithstanding there is no where to be found, a more faithfull Admonisher, or a more diligent Accuser, or a Se-  
verer



## Of the Nature and Definition of Conscience.

verer Witnesse, or an uncorrupter Judge, or, a sweeter Comforter, or a more importunate Enemy. That therefore I may instill into the Minds and Ears of the ingenious, that old, and so often repeated instruction *gnosce teipsum*, that is, *Know thy self*, and divert them a little from the too immoderate desire of a more unprofitable knowledge, gradually by inviting them to a greater care and study of their Consciences; I thought it would be a work worth the labour, if I should a little more diligently inquire into the use, & Nature of Conscience, and in this place, according to my obligations, communicate to you, my Auditors, those Meditations which I shall find most observable on this Subject. I have determined therefore in this first Lecture to lay open the Nature of Conscience by defining it, and in my following Lectures, by the Almightyes permission, I will expound unto you the use and office of the *Conscience*, especially as it reflecteth on things to be done, and that in a double respect: the first, to the rule of the Law to which it ought to be Subject, and the other in respect to former actions over which it is ordained to govern.

II. But the method of defining being twofold, the one *Synthetical*, or by the way of Composition, when by due weighing of every part of the premises, the definition at last is perfectly collected: the other *Analytical*, and by way of resolution which doth take asunder every peice of the definition, and open and unfold that, which at first was propounded entire; Although the former may peradventure seem more convenient to the order of Nature, yet I have made choice of the latter, which I conceive more fit for instruction. Thus therefore

I do briefly define Conscience. *Conscience is a faculty, or a habit of the practical understanding, by which, the mind of Man doth by the discourse of reason apply that light with which he is indued to his particular moral Actions.* In this definition two things do preferre themselves to observation. First, the name of the thing defined, which is the voyce of the Conscience it self. Secondly, the particular members of the definition, which are all those that are ordinary in the definition of the qualities of the first and second *Species*; that is to say, the *Genus*, the *Subject*, the *Object*, and the *proper Act*.

III. As to the Name of the thing defined, it is observed by learned men that in all the old Testament there is not found a Hebrew word which precisely, and peticularly doth signifie the Conscience; But the Hebrews, according to their custom of speaking, as often as mention is made of Conscience, they make use of one of those two words to expresse it לב or לבב, and רועה, the first whereof is known by all to signifie the *Heart*, and the other the *Spirit of Man*. According to this is that of *Solomon* in the fourth of *Proverbs*; *Keep thy Heart* Prov. 4. *with all diligence*, as if he should have said, *Let every one have a diligent care of his own Conscience*; And in the seventh of *Ecclesiastes*, where according to the old interpretation the words are, *Thy* Eccl. 7. *Conscience knoweth that thou thy self hast often cursed* 23. *others*; And according unto the Translation of *Tremellius*, *thy Mind is Conscious*; It is in the Hebrew Text ידעלבך that is, *Thy Heart knoweth*, And in the new Testament, especially in *St. John*, in whose writings there are many Hebraisms; the word καρδια, the *Heart* is often put for the *Conscience*

1 July 3  
21.

ence as John 1 3. If our heart condemneth us not, that is if our Conscience doth condemn us not, it being the proper office of the conscience to condemn, or not to condemn the guilty person standing before the tribunal of Justice; From this proceeds that common allusion of St. Bernard, and others; *Conscientia quasi cordis scientia*, The Conscience is the hearts consciousness. The conscience also in the holy Scripture oftentimes by the Hebrews and the Grecians is called and expressed by the name of Spirit; I will only instance two places, for what needs any more in a thing so evident: In the Old Testament *Proverbs* the 18 and the fourteenth verse, *The Spirit of man will sustain his infirmity, but a broken Spirit who can endure?* As if he should say, a man of a sound and unstained conscience will endure with as much courage as patience whatsoever calamities shall befall him, but an afflicted and guilty conscience is a burden insupportable. And then in the new Testament, I shall make use of that of St. Paul, 1 Cor. 2. 11. which is the Theme and foundation of this present discourse. *What man knoweth the things of a man, but the Spirit of man which is in him.* That is his own Conscience.

III. But most certain it is that the Latin word *Conscientia*, Conscience and the Greek *Συνίστημι*, which in all things is most responsible to the Latin, did both of them receive their derivations a *sciendo*, from knowing; but a preposition being added to both the words in the pronunciation of them, doth seem to imply more then can hereby be contained in the single word *Science*; but several Authors do give a several signification of it. To omit those two allusions that by many are alleadged, (which if

we look on the nature of the thing it self, may peradventure be retained as altogether not improper, but if brought to the exactness of a lawfull examination, will presently appeare but vain and not worthy to be insisted on.) viz. that *Conscientia est quasi cordis scientia*, Conscience is no more than the hearts conscioufnes; And *Conscientia quasi concludens scientia*; Conscience is as it were a concluding Science: It is most certain that those two words *Συνίσκω* and *Conscientia*, beyond the bare notion of a Science, have a certain order and relation of that science to another; for such is the force of the two particles, *Σύν* and *Con*, that in their composition they imply a certain conjunction and an association of many things, so that this word *Conscientia* or Conscience may be said to be *conjuncta multorum scientia*, a conjoynd science of many things, which two ways may be understood; For it may be said to be the science of many things, in respect of the subjects, as the science or the knowledge of many men that do know; as when many persons do know the same thing: or in respect of the objects, when it is the knowledge of many things that are known, as when the same person knows many things alike. Let the word Conscience be taken either in the one sence or the other, the account of the word neither much borrowed nor incongruous may be given, whether we look on the thing it self, or the use and manner of speaking amongst approved Authors.

V. For in the first place when many men know the same thing, they may be said to be conscious of it, and to know it altogether; So those whom *Caecilinus* had chosen into the society of his wickedness, and were made partakers of his counsels, were said



*Martial.*  
*lib. 24.*  
*Juven.*  
*Sat. 14.*

to be conscious of that conspiracy. And he is said to be conscious of the Kings secrets, to whom his privy counsels are intrusted, *Ascitus in conscientiam facinoris*, saith *Tacitus*, Drawn in into the conscience of the villany. *O si conscius esset hic Avitus* saith *Martial* in his Epigrams, O that this man were conscious of it, and *Conscia Matri Virgo fuit*, the Daughter was conscious to what the Mother did; And *Meorum omnium consiliorum periculorumq; testis conscius, et adiutor*, saith *Cicero* in his orations; A Conscious witness, and a helper to me in all my counsels and dangers. I should here be infinite if I should collect whatsoever to this purpose I every where do meet with in the Authors of greatest reputation; But that may serve which already is alledged, unless peradventure you exact of me to produce something from the puddle of the Grammarians which may conduce to this purpose; I will do it, not that the authority of those men is so much to be valued, but because in these things they seem as it were by right to arrogate a kind of preeminence to themselves. In the first place, hear *Nomius*, *In hoc differunt*, saith he, *Scius & conscius, scius secum, conscius cum alio scius est*, That is, the knowing or scious man doth differ in this from the conscious; the scious knows by himself, the Conscious is scious with another.

From this original of the word, they who thought that Conscience was so called as one Science with another, doe give this reason for their opinion, that man not only knows what things he hath committed, but he hath God who searcheth the heart and the reins, to be a conscious witness and an inspector into all his works, nay, into his most secret thoughts, And this is most certain, though words be  
 tongue.

tongue-tyed, and the Voyce be dumb. Behold my witnesse is in the Heavens, and *συμωγ μὲ* my Record that is conscious of me is on high: *Job. 16. 19.* The blessed Apostle also *St. Paul*, in the ninth of the *Romans* and the first, when he had called on God to be the witnesse of the truth he was about to speak, he presently subnecteth *συμμετρεῖς μοι τὴν συνείδησιν*, my Conscience bearing me witnesse; As if he should have said, *Ἰδὲν ὁ Χριστὸς, σύνετα καὶ ἀγὰ.* Christ knows it, and I know it with him, *μαρτυρεῖ ὁ Χριστὸς, συμματρεῖ καὶ ἡ συνείδησις.* Christ doth testify it, and my Conscience doth attest it with him. Let this therefore be the first reason of the derivation of the word, that Conscience is so called, because the deeds of Man are known unto God, as well as to himself.

VI. In another sence the Conscience is called the *conjoynd Science* of many things, as of *Objects*, or of things that are known, when a man knoweth many things at once, or ( which strikes on the same string ) when he conjoyneth and joyntly applyeth the knowledges of several things, that are in themselves distinct. From whence proceedeth this second reason of the word, which pleased much *St. Thomas of Aquine*, and a great part of the *Schoolmen*; and which seeming to be deservedly preferred above the other already mentioned, doth bear no unprofitable light to illustrate the Nature and the force of Conscience, which is, that *Conscience* is so called, because it addeth *Science* unto *Science*, that is, the universal knowledge, or the knowledge of Law, and Right, to the particular knowledge, or the knowledge of the fact by applying one unto the other; I shall make this more manifest to you



by one or by two examples, in the first of *Samuel* the 24 Chapter, and the 50 Verse, it is said that *David's* Heart did fail him, after that in the Cave he had cut off the wing of *Saul's* Garment, that is to say, his Conscience did prick him; for we may imagine that *David* thus reasoned within himself; I know that I ought not to offer any violence to the Sacred Person of the King, I know also that very lately I have done that which commeth very near unto violence; I am afraid therefore that I have done that, which peradventure I ought not to have done, and I give thanks unto God who held back my hand from acting that which certainly I ought not to have committed. In this manner also the Conscience of *Judas* the Betrayer did object unto him: Thou knowest that thou oughtest not to betray thy Master, and thou knowest that most basely thou hast done it. The sense and knowledge of a particular fact either committed, or to be committed, coming in this manner to the universal knowledge of Law and Right which is in the mind, and being conjoyned, and applyed, and wholly reflecting on it, there ariseth from thence all that which we call Conscience. The words which by way of Reciprocation are expressed, and are most frequent in this kind, do confirm this derivation of the name of

*Isocrat. ad* Conscience, of which nature is that of *Isocrates*,  
*Dem.* *ἀντὶ τοῦ ἀλλὰς ἀνθρώπων, συνίστηναι ἑαυτῷ*; Although you lye hid from others, yet you your self will be Consci-  
*Horace 1.* ous to your self, and that of *Horace*, *Hic murus*  
*Epist. 1.* *abenous esto, Nil conscire sibi*; This is as a Wall of  
*Virgil* Brasse, to be conscious of no offence; And that  
*Psalm. 1.* of *Virgil*, *Mens sibi conscia recti*; A Mind which is  
 conscious to it self of its own uprightness; And

to conclude all, of the same sense, is that of St Paul, 1 Cor. 4. 4. *ὡς ἴσως οὐκ ἔχω*, I am conscious to my self of nothing.

VII. I do believe that it is now manifest to you from whence the word *Conscience* is derived, and it is left to your choyce to prefer the one acceptance, or the other, or to receive them both with an equal approbation. The other Reasons which the common Schoolmen, according to their own capacities, do produce, are too weak to stop the progresse of this discourse, of which there are many things that are yet remayning to be spoken. I proceed therefore to open to you the *Quondam* or the cognomination of the word, from whence there ariseth amongst grave Authors so wonderful a difference in the definition, that as yet the controversy is high, and difficult concerning the very first Term of the definition to find out what is the *Genus* of it. To remove therefore all Ambiguity, it is in the first place observable, that there is such an affinity, by nature, of the Indowments of the mind, viz. of *Potentia's*, *Habits*, and *Acts*, and so near a conjunction, so close a connexion, according to the use and exercise of them, that not only the appellations of words, but the offices, and real proprieties of every one of them, are promiscuously, and without any distinction attributed to one another, and that not only in the Rhetorical expressions of the Poets and Orators, and others the Professors of Humane Literature, to whom a Liberty was permitted; but even in the Dogmatical positions of the Philosophers and Schoolmen themselves, who were denied that happy elegance. Nevertheless, although it was  
always

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alwayes accounted a great task, in their own certain bounds, to define and distinguish of things so united by Use and Nature; yet as to the word *Conscience* which is a kind of Science, and so named from it, it will be no little advantage to us, in this place a little more precisely to explain the *quadruplar* or cognomination of this word *Science*, that so, by the manifold use of the single word, the ambiguity of the compounded may more rightly, and more thoroughly be understood.

VIII. In the first place therefore ( as the Names of *Habits* do familiarly passe into their *Objects* ) *Science* is taken in a double consideration, *formally* and *objectively*. And as the *Divines* do distinguish of *Faith*, that, *Faith* by which we do believe, which is a *Habit of Faith* existing in the mind, is one thing; and that the *Faith* which we do believe, which is no more than a thing believed by *Faith*, and but the *object* of the former, and *extrinsical* to it, is another thing; the first whereof may be called *Faith formally*, and the other but *objectively*: so in the same manner we may distinguish of *Science*, and consequently of *Conscience*, that they are taken either properly, and formally, for the very *Habit* of the Mind by which we know something our selves, or acknowledge it with others; or improperly, and objectively for that thing it self which we know, and know that others do know it with us. In which latter and improper sence, the Law which is written in our Hearts, and is as it were a rule of well living may be called *Conscience*; And in this sence is that to be understood, which is so often repeated in the Schools of *Damascene*, that *Conscience is the Law of the Mind*, when indeed *Conscience*

science is not properly and formally the Law of the mind, but rather an object of the Conscience either adequate or in part.

IX. Secondly Seeing these three things *Potentia's*, *Habits*, and *Acts*, are pertaining to the Soul, and although distinct in themselves, they are yet ordained to one another, *Potentia's*, as the natural vertues of the soul it self, *Habits*, as formes perfecting those *Potentia's*, & enabling them for the more ready, & the more pleasant exercising of their *Acts*, and *Acts* which are the exercising as much as the *Potentia's*, as the *Habits*, as the names of *Science*, and of *Conscience* doe in some measure extend it self to all these. For as the Carpenter is said to cut, or hew, first with his Axe as his Instrument, secondly, with the edge of the Axe, as the formal disposition of the instrument, and thirdly, with the cutting or hewing it self, as the use and action of the Instrument: in the same manner the mind of man may be said to know: First, with the *Potentia* of knowing, as the Instrument, Secondly, with the *Habit* of knowing, as a disposition that brings that *Potentia* to perfection; and thirdly, with an actual consideration as with the use, & operation of the *Potentia* & the *Habit*. Science hereupon is taken in threefold respect *Subjectively*, *formally* & *effectively*. First *Subjectively*, for the *Potentia* in whom it is and which it is apt to bring to perfection, as every form in some measure doth perfect its *Subject*; For example, when we say, that the mysteries of Faith do exceed our understanding, the meaning is, that they exceed the measure of our *cognitive power*. Secondly, *Formally*, (the most usual signification of this word) for the *Habit* of knowledge, either *innate*, or *acquired*.



fice; in the same sence we are said to know *principles*  
 known by themselves, and *conclusions* by a legiti-  
 mate discourse of reason deduced from them, and  
 universally all things of which by the assistance of  
 sence, and reason, we have any certaintie. Thirdly,  
 Effectively, for the actual consideration of things  
 before known; In which sence ( to touch upon  
 it by the way ) the words of St. Paul the Apostle, in  
 the 23 of the *Acts*, and the 5 verses in the expound-  
 ing whereof, Interpreters have wonderfully perplexed  
 themselves ) are absolutely to be understood.  
*Brethren* ( saith he ) *I knew not that it was the*  
*high Priest, in whom* that is, *I did not think, I did not*  
*diligently enough consider of it.* As if he should have  
 said; Brethren, pardon my just indignation, if trans-  
 ported by the heat of a troubled Spirit I have spo-  
 ken something more liberally than what became me,  
 being at that instant forgetfull of his place, and per-  
 son, and of my duty, I ought not to revile the High  
 Priest, although he hath done something unworthy of  
 the honour of it; but the exsistence of my passion did  
 prepossesse me from giving that respect unto him,  
 which by a more attentive deliberation I should have  
 done. This is the sence of the Apostle in that  
 place, and it is as easie, as it is proper and per-  
 sistent.

X. But I proceed, as *Science*, so *Conscience* al-  
 so is taken in three several wayes or acceptations  
 First *Subjectively*, for the intellective, practical  
 power, as when we say that the Law of Nature is  
 written in the heart or the *Conscience*. Secondly;  
*Formally* for the *Habit* pertaining to that *Potential*  
 and informing it; In the same sence, making mentio-  
 on of a person notoriously wicked, we say he is a  
 man



## The First Lecture.

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man of no conscience, & that he hath either thrown off or lost all conscience, Thirdly *Effectively*, for any actual motion, exercise, or operation of that *Habit*; as when a man saith that he is conscious of this, or that fact; In which sense is that of St. Peter, the first Book, second Chapter, and 19 verse. *If any man for his conscience to God doth suffer troubles.*

XI. Again, seeing that *Conscience* is properly *judicium* or a knowledge Syllogisticall, inso-much that all who do treat of the nature and the method of it do conceive that it cannot more openly or more aptly be illustrated than by a practical Syllogism; It is to be observed that the word *Science* in the very same respect doth fall under a four-fold consideration. First, and most properly, for the precise knowledge of the conclusion, and thus it is taken by *Aristotle* in his *Analyticks* and many other places, Secondly, for the knowledge of *Principles* from which conclusions are demonstrated, as if a man should say he knoweth that *Omne totum est majus qualibet sui parte*, Every thing that is whole is more and greater than any part thereof. Thirdly for the knowledge of the whole syllogism, for he who knoweth the premises, and the Conclusion, doth know the whole argumentation. Fourthly, for the aggregated knowledge of many conclusions or demonstrations pertaining to one Subject; in the same sense we are said to know natural Philosophy, Geometry, Physick &c. The very same is to be affirmed of conscience whose full discourse many Authors do comprehend in one practical Syllogism. But *Conscience* (as is already mentioned) being a conjoynd Science, that all which comes under this name may more fully, and as it were

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were at one sight be discerned: the whole businessse (as I conceive) will more commodiously be dispatched, if we shall frame the whole discourse of Conscience so to consist of two Syllogisms, that the conclusion of the first Syllogisme be the Major proposition of the following.

*Every thing that is unjust is to be eschewed.*

*Every Theft is unjust, therefore*

*Every Theft is to be eschewed.*

Let this be the first Syllogism, the first proposition whereof is known of it self by the light of Nature: Reason doth prove the *Minor*, and the Conscience doth bring in the conclusion; which conclusion it presently takes up to be the beginning of the following Syllogism; and applying it to some particular Fact, accordingly as the Will shall propound unto it, it argues in this manner.

*All Theft is to be eschewed.*

*This which is now propounded to me to be done is a Theft, therefore it is to be eschewed.*

And the Name of the Vice being changed, it proceedeth in this manner, as often as it judgeth of any past particular Fact.

XII. These things being thus stated; I say that Conscience as well as Science is taken four wayes; First, and most properly for the last conclusion in the course of both Syllogisms, as that, in which the last Judgement of the *practical understanding* is contained. As if a Man should say, my Conscience doth suggest unto me that this Theft is not to be

be

be committed, or my Conscience cryeth out unto me, that it ought not to be committed; And the knowledge of this conclusion is properly *evident* or Conscience, as it is distinct from *evilignon*, or a *guiltlesse conservation of ones self*. Secondly it is taken for the knowledge of that first universal principle known by the light of Nature, or Revelation on which the whole thred of this discourse depends; As if a Man should say, my Conscience dictates to me that no unjust thing is to be done. The word *Synteresis* which is a *guiltlesse conversation of ones self*, is often used for *Syneidesis* or Conscience, but improperly, as in this and such like expressions; The Conscience is nothing else but a *Synteresis*, or a *guiltlesse conservation of the mind from falling into any Vice*, when indeed between *Synteresis*, and Conscience properly so called, there is no little difference; for there is as great a diversity betwixt this *Synteresis*, and Conscience, properly so called, as betwixt *Science*, and the *Habit of the Intellect*, which are two habits of the mind specifically distinct as heretofore we have read in the fifth of *Aristotles Ethics*. As therefore in Speculatives, *Intelligence* is a habit of the first principles, about *Truth and Falshood*, from whence conclusions are deduced, out of which proceedeth *Science*; So in practicks, *Synteresis* is the habit of the first principles, about *Good and Evill*, from whence conclusions are deduced, out of which proceedeth Conscience. Thirdly Conscience is taken more largely for that whole practical discourse of the mind, from the first beginning to the last conclusion which is contained in two such syllogisms, as a little above I have propounded to you, and in its circuit comprehendeth *Synteresis*, and *Syneidesis* also properly

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perly so called. For a mans Conscience doth easily suggest unto him all these things viz., that no unjust thing ought to be done, and that Theft is deservedly ranked amongst those Crimes which do carry on them the face of injustice, and that this particular act which is by me now committed, or which opportunity doth tempt me to commit, is the guilt of Theft. Fourthly Conscience is taken for the aggregated knowledge of many particular acts of which the whole account of our life and conversation doth consist; In which sense those words of the Apostle do seem to be understood; Men and Brethren in all good Conscience *πιστῶντες ὅτι ἔχω* I have conversed with God unto this day, *Acts 23 1.* To the same sense is that of the Author of the Hebrews, *Cap. 13 ver. 18.* we do assure our selves we have a good Conscience desiring to converse honestly with all men; and that of St. Peter in the first Book, third Chapter, and fifteenth verse, where (as a godly and learned man hath observed) that which in the beginning of the verse is called a good Conscience, the very same thing in the end of the same verse is called *ἀγαθὴ συνήθεια*, a good conversation, for as often as we do praise and dispraise any one, to be a man of a good or a bad Conscience, it is by reflecting altogether on his manners, and dayly conversation, without respect to any particular fact he hath committed.

XIII. I have expounded these things more largely I confesse, then at the first I determined, or peradventure then you expected; but I presume you will be more favourable to me, if it shall appear that this prolixity in explaining the *thing defined*, will be the means to make the rest of the treatise more



more compendious, I shall now proceed in the explication of the Definition of Conscience it self, and give you an account of every part, and member thereof; I shall only preadvertise this, (which indeed is clear of it self) that the Definition which before I gave you of Conscience, doth adequately pertain to *Conscience properly so called*, As it is taken for the knowledge of the last *Conclusion*, of a *practical Syllogism*, nevertheless with the due permutation of some words it may serve to explain the other significations as usually it is done in almost all other words which *Analogically* are *equivocall*. The Definition of Conscience, which I shall repeat again, because of many other things since intervening is this, *Conscience is a faculty or a Habit of the practical understanding by which the mind of man by the discourse of reason doth apply the light with which it is indued to its particular moral acts*. In this Syllogism these four things are contained; which by themselves are severally, and singly to be expounded, *viz. The Genus; the Subject; the Object; and the Act*.

XIII. There is a great and fierce controversy amongst the School-men concerning the Genus of Conscience; But in the first place they do all agree that Conscience pertaineth to the mind of man, but whether to the *Potentia*, or the *Habit*; or the *Act*; thereof, is a wonderfull dissention. *Aquinas* who in the Schooles hath a great rayn to follow him, doth state it to be an *Act*; whose opinion many have entertained, and not only the School-men, who are swayed (as I believe;) more by the authority of so great a man, then convinced by his reasons, but the Divines also of the reformed Churches, out of a fastidiousness to that contentious generation, had rather is.

*Estimare  
conscientiam  
in suis  
Cic.  
pro Clu-  
ent.  
[b] Aqu.  
qu. 97.*



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rather in these things follow the most received opinions ( if cleer from all tincture of prophaneſſe , and ſuperſtition ) then to make too curious a ſearch into their thorny ſubtilities. But if I may freely expreſs my ſelf, this moſt common opinion is altogether to be diſproved, and to overthrow it there needs no other argument then this. In Conſcience there are very many *Acts* ; It *dictates*, it *forceth*, it *holderth*, it *teſtifies*, it *excuseth*, it *accuſeth*, it *comforts*, it *gnaweth*, it *tormenteth*, &c. But of *Acts* there are no *Acts*, but of *Forms*, *Potentia's* and *Habits* ; therefore Conſcience of neceſſity muſt be, a *Forme*, or a *Potentia*, or a *Habit*, but no *Act*. To the argument of *Thomas Aquinas* and thoſe that follow him viz. That *Conſcience* is an application of the knowledge or light which is in the *Syntereſis*, or the unſtained conſervation of the mind, and that every application is an *Act* ; I anſwer that the word *Conſcience* ( as may appear by what is already ſpoken ) is taken ſometimes *Effectively* for ſome certain *Act* of it, in the ſame manner as the word of *Science* is taken for an *actual conſideration*; but improperly. For to ſpeak properly, the *Application* of *Science* or *Knowledge*, is not *Conſcience* it ſelf, but an *Act* of it ; as *conſideration* is not *Science* or *Knowledge*, but an *Act* of it ; therefore *Conſcience* is not an *Act*.

XV. It muſt be therefore a *Power*, or a *Habit*; for that it is not a *Form*, ( to wit the Soul it ſelf, but ſomething of it ) is confeſſed by all men: there are many of the *Moderns* who do deny it to be a *Habit*, and labour to prove it to be a *Potentia*, and thus they diſpute it. Firſt, becauſe it is a kind of *Memory*, for the *Intellect* reflecting on things *Agible*, that is, on things done, or to be done, hath a relati-

on to the *Conscience*, as the *Intellect* reflecting on things *speculable*, hath its relation to the *Memory*. And it is sufficiently known that the *Memory* is a *Potentia*, or *Power*, and not a *Habit*. Secondly, because the *Potentia* is that by which the faculty *Acting* is primitively enabled to *Act*; Now, by *Conscience* a man is able to dictate to himself what is to be done, and either to approve or to disprove what hath been performed by it, and that in the first place; because, let him admit but of the *Conscience*, he can do all these, take away the *Conscience*, and he cannot do them. Thirdly, because it is *contradistinct* to another *Potentia* as *Tit. 1. 15.* where *vis* and *ovisidens* the *Mind* and the *Conscience* are openly described as opposite *Species*; It is therefore necessary, according to the rules of contrary *Species*, that they both must have one, and the same *Genus*; now the *mind* is a *Potentia*; and therefore so must the *Conscience* be also. Moreover it is abundantly proved that the *Conscience* is not a *Habit*, both because it seemeth to be as natural to a man, as the *Will* and *Affections*; & because it is found in all, even in *Infants* and *Sucklings*, by a certain instinct of *Nature*; at that *Age* when they do not seem to be capable of *Habits*.

XVI. *Scotts* nevertheless, & *Durand*, & some others of the most subtle *School-men*, are of another opinion; viz. that *Conscience* is a *Habit*; & to speak the truth, their judgment is grounded on no contemptible arguments; First, because that *Conscience* is a kind of *Science*, whereupon the very same *Acts* are attributed to it, as to *know*, and not to *know*. And thus in the 7 *Ecclesi. 23.* *Scit conscientia tua*, thy *Conscience* knows; And in the 43 of *Gen. 23.*

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- Nescimus quis reposuerit pecuniam nostram in saccis nostris*, we know not who did put our money into our sacks, where the vulgar translation reads it, *Non est in conscientia nostra*, It is not in our Consciences. *Nil mihi conscius sum* (saith St. Paul,) in the 1 Cor. 4. 4. I am conscious to my self, that I am faulty in nothing, but Science is a *Habit* and therefore
2. *Conscience*. Secondly, because by the right institutions, and the new information and illumination of the *Conscience*, a man is enabled to do that, to which he was before unable, but by the accessse of the same illumination, there is no new *Potentia* ingendred in the Soul, but rather a new *Habit*. Thirdly, because from meer *Potentia*'s, no man is morally denominated either good, or evil, but from the *Habits*, neither is he prais'd or disprais'd for *Potentia*'s, but for the *Habits*; but men are said to be good, or evil, and are either prais'd, or disprais'd for the quality of their *Consciences*, therefore *Conscience* is a *Habit*.
  4. Fourthly, because it is not proper unto *Potentia*'s, but to *Habits*, to be obtained, to be assumed, to be layd down, or to be lost; but men are said to find, to lose, to take up, and to depose their *Consciences*. The *Conscience* therefore is not a *Potentia*, but a *Habit*.

XVII. I do therefore thus state it. The *Conscience* properly, and formally and by a direct predication is a *Habit*, yet notwithstanding it may be a *Potentia*, and that two ways, first materially, because it is in the *Potentia* as in the Subject, *in eo* that is to say in which; Secondly by approximation, for being placed as it were in the midst, betwixt *Habitu acquisitum*, and *puram potentiam* a *Habit* acquired, and a pure *potentia*, it can assume the name of either

as the *Mediums* do participate of either of the *Extreams*; And hereupon it is that *Conscience* is found in little Children, who are not capable of *acquired Habits*; Neither is it altogether necessary that *rūe* and *awūdnat* the *mind*, and the *Conscience*, in *Tit. 1.* be contradistinct as *bare Potentia's*, but it seems rather that both words are there taken by a *Synecdoche*; the *mind* for the *speculative Intellect* with all its *pertinences*, as the Schoolmen speak it, and the *Conscience* for the *practicall Intellect* with all its *pertinences*, that is, with all the *faculties, Habits, and Acts*, and what do respectively pertain to any of them.

XVIII. In the *Definition of Conscience*, I have placed the word *Faculty*, which in some measure doth seem to me to be common to the *Potentia's* and *Habits*, and is very proper to signify *Habits innate*. Peradventure you will object, that every *Habit* is acquired by often actings, and therefore this doth so appertain to the essence of a *Habit* that *Habits* are especially to be known from *Potentia's* by it, as by a *specificall difference*, to wit, that the *Potentia's* are acquired, and the *Habits* natural, therefore unless a man will maintain meer contradictions, he ought not to say that *Conscience* is a *Habit innate*. To this I answer, that it must be indeed confessed that all *Habits* whatsoever, both are, and ought to be called *acquired*, nay even those *Habits* which seem to be most *natural*, and for this cause, because they want the assistance of the *sences*, and many previous sensible actions that to the *Species* of things sensible (in respect whereof the Soul of it self is like a clear table-Book) may be conveyed into the *Phantasy*, and become at last intelligible;



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Neverthelesse some *Habits* may be called, and with great reason too *innate*, for as much as the mind by an *inbred-light* doth immediately give an assent to the thing propounded, without any fear of the *opposite* to it, only the *Apprehension of the Terms* being supposed; neither to procure its assent, doth it want the helps of internal *study* or external *institution*. For example, *The Intellective Habit* of this Principle, *Omne totum est majus qualibet sui parte*, Every thing that is whole is greater then any part of it, is a *Habit innate* so far as by the force of the light of Nature, and only out of the apprehension of the Terms, the truth thereof of its own accord doth enter into the mind, without any study or Teacher; And yet nevertheless this *Habit* is acquired, so far as it needeth the assistance of the senses, that so by *often actions* in sensible things, one may arrive unto the *knowledge of the Terms*, that is to say, what belongeth to the whole, and what unto the parts.

XIX. If it may be yet objected that the *Conscience* cannot be called an *Innate Habit*, for those things which are *Innate*, are not capable of error, neither can they be defective, and they are the same in all, in whomsoever they are, but the *Conscience* can erre, and be evil, neither is it the same in all men, I make answer, that it doth indeed follow from this that the *Conscience* is not a *Habit simply innate* (which no reasonable man will affirm, for it is repugnant to Nature, but as partly (as before mentioned) it is *innate*, so also it is partly *acquired*. The Soul of man doth bring with it as it were, some seeds of knowledge of *good*, and *evil*, which grow up and are perfected by *study* and *institution*; In the same manner, *natural agility* is compleated by *Exercise*, and

*natural*



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*natural Logick*, by *Logick artificial*; the Conscience therefore in respect of those morall *Agibles*, which as the School-men speak, are of the first *Dictates* of Nature, and are its *primary objects*, is a natural or an *innate Habit*, and is alike in all men, and is always *right*, without any *error* or *depravation*; but in respect of those things which are afterwards learned and come close up unto those first principles, ~~also~~ whether it be by an *internal* and *proper meditation*, or an *external institution*, it is a *Habit* acquired, and may be *erronious*, and *defective*.

XX. But this is enough, if not too much, of the *Genus of Conscience*. I shall more briefly dispatch the rest. The second member of the *Definition* is the *Subject* which is twofold, *viz. Subjectum in eo* and *Subjectum &* the *Subject, in which*, and the *Subject of which*; The *Subject &* or of which, is man, or rather a reasonable creature, if we will speak more *Math. 8* exactly, for it is found in holy Writ, that the An- *29.* gels themselves are conscious of their Rebellion *James 11* and of the punishments thereby due unto them, and *12.* that they know they shall be tormented, yet never- *1 Corin. 6. 3.* thelesse they tremble at the revealed word of God, as also that they are to be judged at the coming of the Lord, and to give an account of all things they have done. But because it belongeth not much to this discourse to know the nature of *Angelick minds*, and it hath pleased the most wise God to make but little mention of it in the Scriptures. I have appropriated this *Definition of the Conscience* unto man only; For although in brutish creatures there appeareth a shadow of *Conscience*, as of reason, and many things are performed by them which do bear

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a show of *Justice*, and *Prudence*, (as indeed what is reported of Elephants, and of the policy of *Bees*, and *Dogs*, and of some other living Creatures is much to be admired) yet they are all but the works of the *Phantasy*, and not of *Reason*, and they proceed from a *natural Instinct*, and not from *Conscience*. Man therefore is the proper *Subject* as well of *Reason*, as of *Conscience*, and every man is so, the very Heathens, the Reprobates, and even Infants themselves, being not excluded. As for the Heathens, *St. Paul Rom. 2. 15.* expressly speaketh, that they do show the works of the Law to be written in their hearts, *their Consciences bearing them witness*; And the same Apostle, *Tit. 1. 15.* declareth, that the filthiest persons have a Conscience although an impure one, for the *uprightness and integrity* of Conscience is lost by the *Fall*, and not by nature. And being regenerate and new born, there is no new Conscience infused, which before was wanting, but the Conscience foul before, and impure by sin, being sprinkled with the blood of Christ, is purified by Faith, according to the eternal Counsels of the Almighty God; And even in young Children (that the name of God may be magnified in sucklings) some Sparks do fly from the ashes of the old fire, and though but very weakly, there is some light of reason to be seen, the force of Conscience so early working in them, that if they have committed any trespass, they will modestly strive to cover and conceal it.

**XXI. Subjectum.** The Subject in which now the *Potential* of the Soul, in which the Conscience hath its seat, is the *practical Intellect*, I say, the *Intellect* and not the *Will*, and the *practical*, not the

*Speculative Intellect.* There is a great controversie amongst the School-men; whether the Conscience doth pertain to the *Intellect*, or the *Will*, or unto both. I will not thrust my self into these contentions, you have had enough, if not too much already of the niceties and difficulties of the School-men. I shall therefore in few words dispatch unto you what I shall find expedient for my present purpose. *Aristotle* in his third Book *de anima*, doth number up three distinct *Potentia's* of the part *intellective*, two whereof are *Cognitive*, that is to say, the *speculative Intellect*, and the *practical*, and the third *appetitive*, which is the *Will*. Of these three, the *Extremes* are the *Intellect speculative* which looketh on *Truth* as *Truth*, and precisely resteth in it, without any order or respect to *practice*; and the *Will* which is nothing at all *speculative*, and *precisely* tendeth to operation, Now amongst both these *Potentia's* the *practical Intellect* is seated in the middle, and according to the Custome of things intermedial, doth in some part concord with either of the *Extremes*, and in some part doth differ from them, The *practical Intellect* doth agree with the *Speculative* in this, that it doth look on *Truth*, and with the *Will* in this, that it inclineth to operation. As for the Conscience, it is most certain that it doth not pertain to the *speculative Intellect*, because it altogether doth direct its Science into *practice*, neither doth it properly pertain unto the *Will*, for if it were so, it would be in it as a *Potentia*, and be the same as *liberum arbitrium* or *free will*, or as a *Habit*, and so it would become one of the moral Vertues; neither of which was ever admitted, or asserted by any Divine, or any Philosopher. It therefore altogether be-

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- belongeth to the *cognitive, practical potentia*, that is, to the *practical Intellect*. And thus *Aristotle*, although he had placed the moral virtues in the *power appetitive*, yet he placed the *Habits of Arts and Prudence* (though ordinated to practice) in the *cognitive power*, as may be seen in the fifth book of his *Ethicks*. This opinion is confirmed by
1. these Arguments; First, that *Conscience* is a kind of *Science*, and all *Science* is in the *Understanding*.
  2. Secondly, that it is capable of *Error*, and *Error* is a
  3. Disease of the *Understanding*. Thirdly, according to the common use of speaking, he who understandeth the Kings Secrets, whether he approveth them, or not approveth them, is properly said to be *Conscious of them*; therefore the proper Seat, and Subject of *Conscience* in the Soul of Man is the *practical, cognitive power*, which is the *practical Intellect*.

XXII. We have seen the *Genus*, and the *Subject*, the *Object* followeth, which is that about which the *Conscience* is versed, and they are the *particular and proper Moral Acts*. In the first place I say *Acts*, that is, something done by a Man, as he is a Man, or a rational Creature, whether it be for the future or to be done, or whether it be past and already done, or present, and now in doing. The *Conscience* is compacted of Eyes, it seeth, and searcheth into all things; It beholdeth things to come, if you are about to commit any filthynesse, it doth Counsel you to forbear it, it beholdeth things present, and in the very act of sinning, it *murmureth*, *checketh*, *biteth*, *picketh*, it *justles*, and *joggs* you to give off; It looketh back on things past, and when you have sinned, it *reproveth*, it *stingeth*, and *accuseth*



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seth, it condemneth, and tormenteth you. On the other side, to good deeds it exhorts you, and whilst you are a doing of them, it doth *incourage*, and *excite*, and *provoke* you, and having done them, it crowns your head with *Honour*, and fills your breast with *Peace* and *Joy*. In the Second place I say *particular Acts*; not by limiting the *Subject*, as if there were some *Acts* that were not *particular*; but oppositely to that *Science* which the *Conscience* doth suppose and apply, and although this *Science* be universal, it is yet referred to *particular Acts*. In the third place I say *particular, proper Acts* to exclude that signification of *Conscience*, which more largely accepted, is extended to the *Actions* of other Men; as when a man may be said to be *Conscious of the Kings secrets*, to be *conscious of Catilines conspiracy*, and the like; Such *Actions* do not belong to our intent in this place, who do here treat of *Conscience properly so called*, which is exercised in *Agibles*, either performed, or to be performed by it self. In the fourth place, I say *Moral Acts*, where it is to be observed that some things are brought about by *necessity*, and some things do fall out by contingency; By *necessity*, as the Rising of the Sun, the Eclipse of the Moon, &c. of which there is a *Science*, by reason of their certitude, but they have not the least relation either to *Conscience* or *Free-Will*. Those things which casually come to passe, are either *things in our own power*, or *things not in our power*; Things not in our power, as the flying of Birds; a Tempest suddainly raised, &c. which come not within the compasse of *Science* by reason of their uncertainty, and being out of our powers, they may be as well put out



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out of our care, the *Will* having nothing to do to choose, nor the Conscience to determine of them. Again, things that are in our power, are some of them morally *neutral*, and *adiaphora* that is, which neither of themselves, nor on the account of any permanent circumstance do contain any moral good or evil; as to go into the market, to write a letter &c. And such things indeed may pertain to the freedom of the *Will*, if at least they be worthy to be taken into consideration, because they may come under the compass of *Choyce*, but of themselves, they do not pertain to the *Conscience*, I say, of themselves, for they may pertain unto it by *accident*, by reason of some Scandal, or any other circumstance of which the *Conscience* may take cognizance; Other things there are, which are morally good or bad, as to serve God, to honour our Parents, to restore the pledge, to oppress the poor, to plunder, to keep or to break our trusts, and all other things which the Philosophers call *inaiweta* or *δυστα* that is, worthy praise, or reproof, and the Schoolmen *meritorious* or *demeritorious*. And these things are properly the objects of *Conscience*.

XXIII. The *object* therefore of the *Conscience* of man is a *moral operable* that is either done, or to be done, either omitted or that may be omitted; Nevertheless it is to be advertised, that in men as they are Christians, the *object* of the *Conscience* is further to be extended, and not only oblige them to the performance of their duties, as they are men, but to believe the mysteries of Faith revealed in the word of God, as they are Christians, for *infidelity* doth cause the *Conscience* to be impure, Tit 1 15.

And

And the Conscience doth sing that man as much, who dispiseth what he vowed in Baptism to believe, as him who violates the commandment which he promised to keep; And it may not unfirly peradventure be said that even the *Evangelical Faith* it self is to be accounted amongst the *moral operables*. They are the expresse words of our Saviour, *This is the work of God that you believe in his Son*, *Job. 6. 29.* And the like in the first Book of the Apostle *St. John*, the third Chapter, and twenty third verse. *This is his Commandment that we believe in the name of his Son Jesus Christ, as he hath commanded us.*

XXIII. The last member of the Definition remaineth, which is, *The proper Act of Conscience*, to wit the application of the light which is in the mind by the discourse of reason to particular Acts; I say in the first place, that application is the proper, and primary Act of the Conscience. That *Axiome* in the Schooles is in every mans mouth; *That of one Habit there is but one Act*, to wit, the primary and the chief, and unto which all the other Acts pertaining to it, may be reduced; It may sufficiently appear by what is already spoken, that there are many Acts of the Conscience in the *Species* of it, but what is that most common Act, which brings all the other within its compass, is most of all to be inquired after; for no other Act but that primary one, which is adequate unto *Habit*, and to which all other Acts are reduced, ought to come into the Definition of *Habit*; And hereupon it is that many when they observed that most of those Acts exercised by the Conscience may in some measure be referred to the Act of judging (for the Conscience doth judge of Acts past, present, and to come, they

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concluded that this *primary Act* was the *Act of judging*. But there are some *Acts of Conscience* which cannot but hardly and with restraint be referred to it; As that *Act* (for example) by which the Conscience gives testimony of some thing committed, or omitted; For it is not for a Judge to be a witness, nor for a witness to pass judgement on a Trespasse; Moreover that *Act of judging* doth necessarily presuppose the *Act of applying*, as going before it, for it cannot be but that the Conscience must first apply the Fact, which it is about to judge, to the light of the mind, before it can give true judgement on it; And this *Act of application* is very neer of kine to the derivation of the word, of which I have before spoken, that Conscience is so called because it is an *application of knowledge unto knowledge*.

XXV. In the second place, I say, that this *application* is an *application* of the light which is in the mind, that is of the light present to the mind at that time when the *Application* is made, whether it be that light of Nature, viz. common notions written in the hearts of men by the dictates of nature, and kept in the *Synteresis* or guiltlesse conservation of the mind, as a treasure snatcht from the Common fire, and the reliques of the Image of God after the Fall, or whether it be a light of *Divine revelation* either extraordinary by *Visions, Dreams, and Prophecies*, or ordinary, being laid open to mankind in the bookes of the old and new Testament. Or lastly, whether it be the *light of reason*, to wit, whatsoever from the principles of both kinds, from the *Law of nature* and the *Divine revelation*, is so immediately and evidently deduced, that no man who doth grant the one can doubt of the other.

XXVI. In the third place I do say that this light is applied by the discourse of reason, for this light that is to be applied being *quid universale*, something universal, and that which it is applied to, being *particular*, or *singular Acts*, such an application cannot be made but by the *mediation* of this *discourse of reason* which is able to unite *Universals* unto *Singulars*; And this is the work of *Reason*, by such a *Syllogism*, or such *practical Syllogisms*; as already I have exhibited unto you. Moreover it often comes to pass, (as it is commonly spoken, and experience doth prove it to be true) that we erre by going downwards, and so it is, that although we do not easily fall into an error concerning the *Prima & Universalia principia* the universal principles which do carry with them a greater evidence; yet in the application of those principles, and in deducing conclusions from them, errors most often are committed, wherefore we must use the greater care, and diligence, that we do not deceive our selves, but that in this *discourse of reason* all things be exactly considered, that so we may justly proceed, and as legitimately and duely conclude.

XXVII. Fourthly, I say that this application ought to be made to *particular Acts*, which four ways may be done; for the *Conscience* doth apply the light of the mind, with which it is endued, either to things already done, or to things to be done. To things already done in a twofold consideration, first by bearing testimony that this is done, or that it is not done by us, in this manner are those formes of the *Rhetoricians* in the question of the *Fact*, *Crestes* hast thou killed thy mother? the *Conscience* maketh answer, *I have killed her*; Secondly by giving

judge-



judgment whether the fact committed or omitted, be well or ill done, or whether well or ill omitted; as in the question of right or Law (among the *Rhetoricians*) where the Fact is evident, as Didst thou kill *Clodius, Milo*? thereply is, *I kill'd him.* Dost thou therefore confesse thy self guilty? *I have killed him lawfully.* Here in the first application the Conscience proceeds by the way of a *witnesse*; in the second by the way of a *Judge*; for the offices, and Acts of Conscience in the first proceeding are to bear *witnesse*, in the second to *reprove*, to *accuse*, to *excuse*, to *condemn*, to *absolve*; From hence there doe arise diverse effects in the Soul from the Conscience *reproving*, *accusing*, and *condemning*; a great sadnesse and trouble of mind, remories, terrours, and torments; and on the other side, from the *excusing*, *defending*, and *absolving* Conscience, there proceeds an extraordinary peace, and tranquillity, an unspeakable joy, and solace, an erected hope, an unstartling confidence, and a most stedfast and unshaken constancy of mind. The third application of Conscience doth look on things *future* that are to be done, in which the Conscience doth proceed as a *Law-giver*, *School-master*, and *Admonisher* or a *Counsellour*: And in this manner of proceeding, the offices and Acts of Conscience are to *dictate*, to *oblige*, to *incite*, to *retract*; these are the principle Acts of Conscience to whose voice encouraging to righteousness whosoever shall give ear, he shall not fear her as a *witnesse*, or as a *Judge*.

XXVIII. I have now finished what I conceived necessary to be spoken concerning the nature of Conscience, in which I have been longer (I fear) but



but certainly more obscure then either I would or ought to be ( if the Subject could otherwise have born it, ) or then I hope I shall be in the following Lectures concerning the use of Conscience ; But truly all *disputation* concerning the *faculties* and *Potential's* of the *Intellective soul*, is intricate and perplexed, as most grave and learned men have already complained of it, both because the things themselves are something more remote from *sensible matter and motion*, as also by reason of their mutual *relation* and *connexion*. But peradventure you will say unto me, by your *Definition* you have rather obscured, then any ways illustrated a thing that is manifest, and vulgarly known, which is in the daily use, and in the mouth of all men ; truly in this, I cannot deny the objection, so empty are the studies and cogitations of men, and so weak are all our endeavours, Those things which are before our feet, and eyes, which of themselves do jump into our *thoughts*, and *sences*, those things which are not unknown to the Cobler, and the Weaver, things which the most illiterate men do think they understand, and indeed in some measure do understand them, the same things are not understood by the greatest of the Philosophers, and the most refined wits are here at a stand. VVhat Clown almost is there that thinks himself so wretchedly silly, as not to give you a perfect account, of what is *Time*, or *Place*, or *Motion*, and the like, into the diving into, and the unfolding of the Nature whereof, *Profound*, *Accute*, *Angelick*, *Seraphick*, *Doctors* have for many ages past, exercised, and are still exercising themselves, and after so much sweat, and labour, have not yet attained their desired Gole.

Odi ego inquit definire---facilius est mihi videre in alterius definitione quid non prob me quam quicquam bene definiendo  
August. 2.  
de Ord. 2.

In time I am, and of time I speak, and yet I know not what time is, saith St. Augustine of time. In which I cannot sufficiently admire the infinite wisdom of the Almighty, by this means bearing

Gal. 6. 3. down all humane pride, and presenting to mortals as in a mirror that empty *pannucopia* seeming wisdom, by which they would appear to be something when

Hor. 1. E. they are indeed nothing, miserably deceiving their own hearts, that so men might learn *metiri se modulo*, ac *pede suo* to measure themselves by their own

7. Rom. Last, & their own Module, & not to be wiser than it becommeth them, but to be wise unto sobriety, acknowledging their own foolishness, that to God alone may be the glory of his wisdom.

12. 30



THE  
SECOND LECTURE.

In which it is declared that in the Con-  
science of a good Intention there is not  
such a Protection, that a man  
might safely rest therein.

ROM. 3. 8.

*And as we are blamed, and as some affirme  
that we say why do we not evil, that good may come  
thereof whose damnation is just.*



That the mind of man doth contain  
something in it of Divinity,  
is with a great consent confessed  
by the wisdom of the Ancients,  
who have termed it to be *Divine*  
*particulam aure*, a particle of the

Horat.

2. Satyr

2.

Diactetus.

Divine Ayre ; *ὅτι ἀποσπασματικὴ καὶ ἀθάνατος*  
and have affirmed that our minds have been taken  
from the immortal Gods, and are pure as Heaven  
itself ; Nay some of them rising higher and speak-

Menti  
ad s in  
Cap solio  
vid. Cic. 3.  
de nat. de-  
or. & Liv.  
lib. 23.  
Plura ch.  
in quest.  
platon.  
Ovid. 2.  
Fast.  
Senec. E.  
pist. 31.  
Luxu i.  
nasu da i.  
mon. Xc-  
nocrat. a-  
pud Ari-  
stor. 2.  
Top. 6.  
M. min rit  
Deum se  
ad ibere  
sistem, id  
est ut arbi-  
tr o, men-  
tem suam.  
Cic. 3.  
Offic.  
Exod. 8.  
1.

ing more boldly, have not been afraid to say, that the mind is God himself, and have raised Temples to it as to a Deity, Ο' ρ'ς γ' ας ημ'ων ο θεος saith Menander in Plutarch, and Ovid, Mens quoq, Numen habet, and Seneca, Quid aliud voces animam quam Deum inhumano corpore hospitantem, What else will you call the mind but a God lodging in a humane body. In which words as some of them seem to have most reference to the *solus* or the *substance* of the *soul*, which being void of matter and bulk, and free from Death and Corruption, and endued with understanding and the liberty of will doth seem rather to come nearer to the nature of immortal Gods then of corporal things, so the others do reflect upon that *Power* and *divinitas* against energetical Virtue, which we call the *Conscience*. And from hence it is of Menanders Επολις αμ'αν η ου- ριδ' ους θεος. To mortals every ones Conscience is a God. And in this sence the Lord said that he had placed Moses as a God to Pharoah, because he did inculcate into Pharoah the will of God, he did excite Pharoah to the performance of it, and for not obeying it, he did prosecute him with continual plagues, and in the same sence it may be said that God hath given to every particular man a proper Conscience to be as a God unto him, which in Gods stead, as the Preacher of his eternal Law, should dictate to him what he ought to do, and what to avoid, and which solicitously should importune him to the performance of these duties which are commanded, and severely should call unto him for an account of his actions good or evil, which should extort from the most wicked an acknowledgement of the Divine Justice, & as a most just Judge should discern

cern and assign unto every one either rewards, or punishments, according to their deserts; for by nature the State of *Conscience* is placed as it were in the middle betwixt both, beneath God, but above Man, subject unto God as a *Hand-maid*, but set over man as a *Mistresse*.

II. From hence it is, that *Conscience* is taken into a double consideration, as it cometh to pass in all other things which are in an order disposed according to the Rules of *Sub* and *Supra*, *Above* or *Under*, in which those which possess the middle place have a two-fold relation, the one to the thing *Superiour*, under which they are, and the other things to the *Inferiour* which are placed under them; Thus a *Captain* obeys his *Lieutenant Colonel*, but commands the common *Souldier*. *I am a man placed under Authority, having Souldiers under me, Math.*

8. 9. And in the *pradicamental course and order*, those things which are placed between the *highest Genus*, and the *lowest Species*, are both the *Genera* of those *Species* of which they are predicated, and the *Species* of those *Genusses* to which they are subjected. In the same manner *Conscience* receiveth a diverse Condition, as it hath a relation unto diverse things, for it hath the condition of a *power regulating*, or of a *thing regulated*; In the respect of God, and the Law of God, it hath the condition of a *thing regulated*, but in respect of man, and of humane actions, the condition of a *power regulating*. And since it is our purpose to expound unto you the use of *Conscience*, of which in our last Lecture we have given you the Definition, especially so far as it pertaineth to the performance of things, and is commodious for the Institution of our life, and manners, the



course of the Subject, and of our studies doth here require, that we should now speak of the *double obligation of Conscience* that shall be usefull to us, which is the *Active and passive obligation*; The *passive obligation* of the *Conscience* is that by which it is obliged to confirm it self to the *Divine Will*, to which as to a Rule it is subjected. The *Active obligation* is that which obligeth all humane Acts to a conformity thereunto, and is as a rule over them; There are therefore two parts of this present treatise, the first of the *subjection of Conscience*, or the *passive obligation*. The second, of the *power of Conscience* or the *active obligation of it*.

III. Of the first of which, that this discourse may more legitimately proceed, this is first to be premised, seeing that the *Rectitude* of every thing consisteth in its conformity to its *next and immediate Rule*, and so gradually ascendeth to its *first and most chief Rule*, and seeing the immediate Rule or Law of Conscience, is *right Reason*, but subject to the Superior Law which God hath præscribed to it, the *Conscience* may there be said to be *right* when it is conformable to *right Reason* according to that Law which God the supreme Law-giver hath præscribed to it, for the condition of that *Act or Work*, whatsoever it be, which at that time we are performing.

The last Explication or resolution of Conscience is into a certain Law imposed by God on a rational creature, as being the *Lord of Conscience* alone, and the *Supreme Legislator*, who indued man with a Conscience, and who is the only knower and the Judge of it, & who alone hath power to save or destroy a Soul, accordingly as it hath kept or broken his

Com-

Commandements, James 5 12. *There is but one Law-giver who can save and who can destroy.* Which is so confessed by all men in whatsoever parts of the world they live, that there is hardly one to be found who will not of his own accord allow it to be most true in the *Thesis* or the *Position* of it; but in the *Hypothesis* or *Supposition*, (when any thing is to be done,) I know not by what depravedness of the heart it comes to pass that many men (and even those men who appear neither to themselves nor unto others to have thrown off all care of Conscience) are with such prone affections transported to those things which they desire to be done, that they do not only forbear to bring them most faithfully to be examined by that most chief and supreme rule, which is only able to secure the Conscience, but they conceive it is enough for the security of their Consciences, if either by the *presence of a good Intention*, or by the *Example* of some holy man, or if by the *Authority* of some great Divine they can any ways defend themselves, and what they have acted. And because this Deceit in the hearts of men hath been too prevalent in all ages, and especially in these last times, I perswaded my self that it would be a work most profitable, and most necessary for the manners in which we live, if I could expound those three vulgar *suppositions*, which are so full of the *trepasse*, and so dangerous unto so many Consciences, therefore before we do descend to seek and find out the true rule of Conscience, we must first demonstrate that there is not any protection enough for the security of the Conscience, in the performance of any affair, if that which is done be not performed only with a *good intention*, or be supported by the

example of a Godly Man, or by the Judgement of a Learned one. Of the two last ( God willing ) we shall treat hereafter, our Discourse at this present shall be of that subject which in the first place doth encounter us, *viz. Of a good Intention.*

IV. Where I shall lay down this Conclusion, *That the goodnesse of the Intention is not enough to justify the goodnesse of the Act.* That is, a good Intention cannot alone, and of it self procure that any humane Act should be *morally good*, or, which is the same, and they are the very words of the Apostle, that *Evil should be done that Good may come thereby.* When I say an Act, I understand both the inward Act, which is in the Will, and all the exterior Acts in the executing faculties, which are flowing from it, it being my meaning, that out of a good Intention alone it doth not follow that either the Will it self, which is the first principle of acting, or any externall Act flowing from it should be said to be good. The Intention may be taken two wayes; first properly and formally for the Act of Intending, that is, for the motion of the Will, tending to the end by some certain mediums. Secondly, materially, and objectively, for the thing it self intended, that is, for the end to which the Will so tendeth. For the Act intending, and the end intended are of one and an alike consideration to the goodnesse or the evilnesse of the Act, if we look upon the quality of the Act, but if we shall reflect upon the quantity of the goodnesse or of the evilnesse of it, there will be found some disproportion in the consideration thereof. For it being granted that such an Act is good in its own Species, and upon the account of its Object, and that it may be done for a good end, or on the

the contrary it being granted that the *Act* is *evil*, and is done to an *evil end*; by how much the stronger the *Will* is moved whiles it tendeth to that end, by so much the *Act* respectively, will either be the better or the worse; As if a man should partake of the *Supper of the Lord*, to that end, to put himself in remembrance of the death of Christ; the more entirely that he applies the mind to the remembrance of his death, the better he performs the duty of a true Communicant. Again, if a man should slander his neighbour, intending the ruine of him, by how much the more violently he intends it, by so much the worse is his *Act* of Calumnation, *The quantity therefore of a good or an evil Act is correspondent to the quantity of the goodnesse or the evilnesse of the Intention, and is commensurate with it, if the Intention be understood according to the Act of intending, and not as to the thing intended. But the intention taken either way doth not suffice to prove this, that any Act which otherwise is evil, should be made good.*

V. This conclusion is proved by many and most strong arguments, first by the words of the sacred Text, in the third Chapter of the *Romans* where the Apostle not without indignation doth detest that grievous slander by which it was said to be taught; *That evil may be done that good should come thereof.* That the sence, the scope, and the force of this place, may be the better understood, that St. Paul amongst all the Apostles was abundantly the most copious in asserting every where, the *mercy of God by Grace*, making a *Covenant of grace* with sinfull men, and faithfully fulfilling the Evangellicall promises, notwithstanding a ll that *unrighteousnesse* and *unbelief* of men,



Rom. 5. 2.

men, which lyeth within their hearts, and openly and abundantly doth declare it self in their dayly lives, and conversations, which he professeth to be so far from making these *promises of God by Grace* to be in vain, that on the contrary they do render the glory of his grace and truth to be far more illustrious, for *where that the offence abounded, there it is manifest that Grace superabounded.* From hence the *Sophisters* and *Imposters* took on one side to themselves an advantage to slander, and to diminish if they could the authority of the Apostle. On the other side the Hypocrites and profane did take an occasion to live more licentiously, and to sin more securely; For if that be true (said they) which is preached by *Paul*, that the sins of men do redound to the greater glory of God, there is no reason that God should punish sins, or be angry with sinners; There is no reason that a man or woman should abstain from sinning, nay they should sin more abundantly that God might receive the more abundant glory, and *evil things are altogether to be done, that good things may come thereby.* The other objections the Apostle confuteth, but to this, *let us do evil that good may come of it*, he doth not vouchsafe any answer at all; he only cryeth out, that it is a manifest slander, and near of kin unto blasphemy, and unless they repent, the just judgment of God is threatened to such importunate slanderers, as if this Sophism was of that kind of arguments which *Aristotle* adjudged not to deserve an answer, but rather a reproof; It is hence manifest, and all Interpreters do acknowledge it, that the Apostle most constantly denyeth that any *evil ought to be done for any intention be it never so good.* It much availeth  
(saith



## Of a good Intention.

43

(saith St. Augustine) to consider for what, Aug. contra mendaciam.  
 what end, what intention such a thing is done, but those  
 things which are manifest sins ought not to be done un-  
 der any pretence of a good cause, or a good end, or of a  
 good Intention. This is the first argument.

VI. The second it is taken from the nature of evil  
 or of sin, which of its own nature is not first to be  
 chosen, neither is it secondly, ordinate to a good end, 7d al 2gdp  
 uk d'n wola  
 sua m.  
 pisaon  
 aipalor  
 ylowlo.  
 Hiercl.  
 pag. 78.]  
 neither is it thirdly, apt of it self to produce any  
 good, first it is not eligible, or it is not to be chosen  
 by reason of its own nature, *quia tale*, as it is of such  
 a nature, for there is nothing eligible which is not  
 also *Expitible*, and all things that are desired, are de-  
 sired under the account of good.

Neither is evil of its own nature *ordinable* to any  
 good end, for if it were, it were also to be desired;  
 for the appetite in Philosophy is not only carry-  
 ed to the end propounded by the Agent, but to  
 those things also which seem to conduce for the ob-  
 taining of that end. If you object, *God doth dispose*  
*of our evils into a good end* of his own, and therefore  
 it is not against the nature of evil to be ordained to  
 a good end. I answer in the first place, that the ways  
 of Almighty God who is the Lord of Nature, and  
 according to his good pleasure can produce good  
 out of evil are farre different from ours, who have  
 not the same right or the same power; neither is  
 it for us either too curiously to enquire, or too ma-  
 gisterially to pronounce any thing of the Providence  
 of God concerning evil. In the second place I an-  
 swer, that God indeed is able and accustomed to  
 make use of our sins to serve his Glory, Grace and  
 Providence, and that it is lawfull for us also, as op-  
 portunity shall serve, to follow his example and to  
 make

1.

2.

3.

make use of the sins of other men for our spirituall or temporall advantage; Notwithstanding, as God, although he maketh use of the evil of others, and produceth Good out of it, yet he never doth evil himself, that from thence he might abstract good; so neither is it lawfull for us to do evil, that good might proceed from it; It is one thing to make use of the evil of others, and turn it into good, and another thing to do evil with an intent of good. Thirdly, I answer, a thing may be said to be *ordinated* in a two-fold respect; either *improperly*, in the same manner, as a thing which way soever it is made use of by the *Agent*, doth notwithstanding tend to its end, being so done by the *wisdom* and *power* of the *suprem* Agent, contrary to the *will* and *intention* of him that did it, or it is taken more *restrictly*, and *properly*, and so that only is said to be *ordinated to its end*, which *antecedently* is chosen by the *Agent* as a *medium* that by the nature of it is convenient, and conducing to such an end. In the first sence, that is to be understood, when we say that God doth *ordinate* and dispose of evil to a good end, that is, when God, out of his infinite mercy and power, either abstracts good from evil or turneth evil into good; But we must above all things take heed, that these expressions be not understood in the latter, and *proper*sence, as if God antecedently did well approve or make choice of any evil, as a *medium* convenient by the nature of it to the *affecution* of any good end.

VIII. Moreover it is opposite to the nature of sin to produce of it self any good effect, as an evil tree cannot bring forth good fruit, nor darknesse produce light of it self; but the same great and glorious God

Non est  
venire be-  
ne viro  
Vitis uni  
Quint 6.  
Iustit. 1.

Mat 7.18.  
2 Cor. 4.6

God who out of his omnipotence, brought forth light out of darknesse, can also out of our *sins* take an occasion to illustrate his infinite wisdom, his righteousness, and his goodness; But these are the effects of a divine power, as of a cause working properly, and of it self, to the production whereof there needs no assistance, nor strength from our *sins*, which as to those effects are but meerly contingent, and but by accident. Those words therefore of David Psalm 5. which St. Paul alleageth, Rom. 3. 4. *I have sinned against thee ~~etwas~~ <sup>et inquit</sup> that thou mayest be justified when thou speakest*, are not so to be understood, that David for that end committed murder and adultery, or that it was lawfull for him so to do, that God might be justified in his words but the word *etwas* and some other Greek particles of the same signification in many places of Scripture are to be understood, according to the interpretation of St. Chrysostome not *et inquit* but *inquit* to denote and inferre the event only, and not the true cause of the thing; For as he who is in a serious argumentation can inferre a true conclusion from the false premises which before were granted by another, and yet the same Disputant would show himself ridiculous, if to prove a true conclusion, should willingly make use of some false assumptions, for Truth doth not stand in need of the patronage of Falshood; so Almighty God (and we also in some respect may do the like) can dispose of things that are ill done into good, but it is neither congruous to the divine Justice and Goodness, neither is it any ways lawfull for us to will and to do evil that good may come thereby.

IX. The third argument is taken a *naturâ boni Actus*, from the nature of a good Act, to the complement

ment whereof the *concourse* of all requisite conditions is so necessary, that if one be but absent amongst so many of them, although all the other be present, and subservient, yet that *Act* shall not be morally good. Most remarkable is that *Axiom*, *Bonum ex causa integra, malum ex quolibet defectu*, Good proceeds from an upright and an entire cause, but evil from any defect. And it is besides manifest in all kind of things that there are more required to raise up, than to throw down, or to destroy. The defect of a good *Intention* is enough to prove any *Action* evil (for that, the end whereof is evil, must of necessity be evil it self) but it is not enough, it is not sufficient that a good end, or a good *Intention* should prove the *Action* good, unless all the other requisite conditions be conjoynd; Now that any *Action* whether the internall of the will or the externall of the work, may approve themselves to be good, we are to understand that there are three distinct goodnesse, viz. the goodnesse of the object, the goodnesse of the end, and the goodnesse of the circumstances. The quality of every *Act* doth first of all, and principally, depend on the quality of the object, or of the matter, about which it is conversant, so that from thence every *Act* may indefinitely and according to the whole species of it be denominated, either good or evil; in this respect we affirm that *Theft* and *Adultery* are evil in the whole Species of them, and that *Prayer* and the giving of *Alms* are good in all their severall respects, and the acceptations of them; but with this difference, that things which in themselves are simply evil, are so evil, that neither upon the account of the end although good, nor yet on the account of their circumstances, although never so promising, they can e-



ver be made truly good ; But things which are good in their own nature, may yet be so corrupted by the end, or by undue circumstances, that they may leave off to be good, and become evil ; The gravity therefore of the object being presupposed we are altogether to abstain from the Acts of Theft or of adultery, as being simply evil in themselves ; But the goodness of the object being presupposed it is not safe for any one, at the first, either to undertake to do it, or to approve it being done, unless he hath diligently weighed before hand the end, to which it is directed, and the severall circumstances with which it is attended, and cloathed : In these things therefore in which it is said that the Goodness of the Act doth depend on the end, and that the end doth discriminate and crown the actions, they may be said so far to be true, if the Acts be good in consideration to the object, or the matter, or at the last, if they be of a middle nature and indifferent, but not if they are evil. For the goodness of the object being supposed the Act doth chiefly take its goodness or its evilness from the end. For examples sake, the Act of giving a poor man an alms though it be a good Act in respect of the matter or the object, yet if it be done for vain-glory it is morally an evil Act, because it is not ordinated to a good end. The same Act, if it be to relieve the necessities of a neighbour is an Act so far good, that it hath a lawfull matter, and a right Intention and so partaketh of both the goodnesses above mentioned, to wit, of the object and the end, but it cannot yet be affirmed to be simply good, unlesse it be moreover duely circumstanced, for to this complement of a good work, besides that goodness of the object and the end, there is required the goodness



nesse of circumstances; And from hence it is, that commonly it is spoken that the goodnesse of the Act doth depend upon its circumstances not primarily, and principally, but ultimately, and for the accomplishment of it, the goodnesse of the object and the end being first laid down, seeing therefore these three things are required to the goodnesse of every moral Act, and they are all to be conjoynd, to wit, the matter lawfull, the intention right, and the circumstances due, it is most manifest that a right intention cannot alone suffice by it self, and by consequent, that nothing can be performed out of a good Conscience, whatsoever the Intention be, that is either unlawfull in the object or defective in the circumstances.

X. But some there are who peradventure will object unto this, those words of our Saviour, *Mat. 6. 22. If thy eye be single thy whole body shall be full of light, but if thy eye be evil thy whole body shall be full of darkness.* Where if the intention be understood by the eye which is the judgment of almost all the Interpreters upon it, it seemeth that the goodnesse of the Act doth altogether depend on the goodnesse of the Intention, & that adæquately, so that what power an evil intention hath to corrupt an Act although otherwise good, the same power a good intention hath to approve and to render an Act good, which otherwise is evil, for a good or a single eye is as efficacious to enlighten the whole body, as an evil eye is to infuse darkness on it; To adde more strength to this opinion much may be alledged from the Fathers and other Divines, of this nature is that in the Glossse; *As much good as you do intend, so much you do perform;* And that verse in the mouth of every Stool-boy.

*Quicquid*

*Quicquid agunt homines, Intentio iudicat illud.*  
 It is th' Intention judgeth true  
 Of whatsoever things we do.

XI. But in the way of answer, as to that place in the 6 of St. *Mat.* I am not ignorant in the first place, that some learned men of this age do give an interpretation to it far different from that of the ancient Fathers, and not consonant to that we have now in hand; But in reverence to those ancient Doctors, be it granted that those words of our Saviour had a proper relation to the *Intentions* of men; I make answer, that the *intention* (when it is a motion of the *Will* tending to some ends by certain *mediums*) is taken into a twofold consideration, first whether it be for the *intention* of that good into which the *Will* is finally and precisely carried, being taken from all consideration of the *mediums* to attain it; As if a man should say he intends the glory of God, or his own profit, and pleasure: or secondly whether it be for an entire ordination of the whole progresse of the work, from the beginning of the work unto the end, including also the *mediums* or the means to attain it; As if a man should say that he intends the glory of God by building a Temple, or staining an Idolater; or that he intends his own profit, by getting riches by his honest labour, or by theft, and plunder; And as he may be said, that he intends a journey to Rome who only thinks of going thither, and hath not yet resolved with himself which way, or upon what accounts he will go, as well as he who hath resolved with himself, when to go, which way, and upon what occasions. We speak

in this whole discourse of the *Intention* taken the first way, viz. on the *intention* which looks altogether upon the *end*, and not on the *means*, & which is so taken in the common use of speaking; but those words of the *Fathers* and other *Divines* which seem by the *intention* alone to measure the *goodness* or the *badness* of mens actions, and which are grounded on those words of our Saviour, in relation to a *single eye*, and to an *eye* that is evil, do receive their *intention* in the latter signification, as they include the *means* with the *end*; observable is that of St Bernard, *That the eye* (saith he) *be single, two things are necessary, viz. that truth be in the election, and Charity in the intention.* That is, that our intention be absolutely right both are required, that so we may not propound unto our selves such an *end* which is averse unto the love of God, and of our neighbour, and that we make not choice of any *means* that are not joyned with honesty & righteousness. In every work therefore we must not only look to propound unto our selves a *good end*, but we must withall endeavour to the *end* so propounded by apt, lawful, & honest *means*, for seeing that the *election of the means* or the *mediums* do arise from the *intention of the end*, & is so necessarily joyned to it, that in the respect thereof, it hath the place of an *accident inseparable*, or a *necessary circumstance*, the School-men do almost all of them conclude, that an *evil election* doth corrupt an *intention* that is otherwise *good*, by rendring that *evil* which before was *good*, in the very same manner as *evil circumstances* do corrupt those *Actions*, to which they are retainers.

*Animum  
laudo:  
Consilium  
reprehendit.* Cic.  
9. ad Att.  
c. 11.

XII. The fourth argument is taken from the perfection and obligation of the Law of God; For there

is a *Law* propounded from God to men, a most perfect *Law*, which commandeth things to be done, and forbiddeth those things which are not to be done; *It hath shewed unto thee O man what is good, & what the Lord requireth of thee Mich. 6. 8.* This is the *Law* which we must obey if we will fulfil our duties, by this *Law* we are commanded (as the Scriptures every where do declare) to do *good*, and to eschew *evil*; But if we on the contrary, without the least regard to the *law of God*, shall measure out unto our selves things to be avoyded or performed, according to our own profit, and as we shall think good, and shall either omit those *good things* which God commandeth to be done for the fear of some following *evil*, or shall commit those *evil things* which God forbiddeth, for the vain hope of some good to come, what is this but (worms as we are) to preferre our own *Counsels* above the expresse will of Almighty God, and the wisdom of the flesh above the *Authority of the most holy Spirit*. Farre otherwise did that holy man *David*, *By thy precepts* (saith he) *have I gotten understanding, therefore have I hated all unjust wayes, Psal. 119. 104.* As if he should say; being instructed by *thy Law* which both night and day is in my heart, my mouth, & before mine eyes, I do plainly understand what I have to do, and what I have to eschew, wherefore I do not only decline but hate every way which is not consentaneous to *thy Law*, whither soever it may seem to lead me. Therefore since every sin is forbidden by the *Law* of God, and that *Law* of his containeth not the least exception of any good *Intention*; or *Event*, and we ought not to *distinguish* where the *Law* maketh *no distinction*, nor to except where the *Law* maketh



*no exception* it is most manifest, that he whosoever he is who for what *Intention*, or what *cause* soever it be, doth knowingly and willingly do that which is evil, he doth sin against the Law of God.

XIII. The fifth argument followeth, drawn from the examples of those who under the pretence of a *good end* being so bold as to disobey the express Commandment of God, have satisfied his anger by the just punishment of their rashness, and disobedience. The Prophet *Samuel* being sent to *Saul* the King of *Israel*, who saved some of the cattle of the *Amalekites*, which God had commanded should be totally destroyed, for no other end, as he pretended, than by the bulk and fatness of his sacrifice to make it the more acceptable, the said Prophet did lay before his eyes the grievousness of his sin, and for the punishment of so great a disobedience, did prophesy unto him that his Kingdom should be taken from him; If any man shall think this example not congruous to prove this *truth*, because it doth not appear that *Saul* did this with any *good intention*, neither was the *end* which afterwards he pretended, fixed and grounded in his resolution when he did it, but it is more likely that he looked after his temporal advantage and commodity, both because it was objected to him by the Prophet, and laid unto his charge that he obeyed not the commandment of God, and because (which is common with Hypocrites) he did make an excuse for his disobedience; That this exception may be waved, & create no more trouble or scruple, it is to be observed, that where *Hypocrisy* is joyned to *disobedience*, the crime is not so much increased, as it is *doubled*. There is no man doubteth but that *Saul* was guilty of a double fault

fault, of *disobedience*, and *dissimulation*, not to make mention of the third crime which was the root of the two former, viz. a *mundane affection*, and a desire of gain, and of his *own glory*. The sins of *disobedience* and of *dissimulation* were distinct in *Saul* & neither conjoynd by *nature* or by *time*; not by *nature*, for one of them can be in any man, without the other; not by *time*, for *disobedience* had the precedency, to wch. afterwards upon another occasion was added *Dissimulation*, which not obscurely may be collected from the very words of *Samuel* himself, who making no mention of the *dissimulation* of the King, did only sharply and securely reprehend him for his *disobedience*; obedience saith he is more acceptable than sacrifice, as if he should have said, *What do you tell me of sacrifices*, which if you did in earnest before intend them, or now to excuse your *disobedience* you do pretend them, it is all one in relation to your duty. You ought to have obeyed the commandment of God, and without the least murmuring or dispute to have fulfilled that which he prescribed: But whatsoever this miscarriage of *Saul* was, most certain it is, that *Uzzah*, whose History is written 2 Sam. 6. did put forth his hand to the holy Ark not deceitfully, but devoutly, and with a most pious Intention. that the Ark of the Covenant should not fall on the ground (which at that time under the economy of the old Testament was a dreadful Symbol of the Divine presence) when the Cart in which it was carryed being violently shaken, it seemed even ready to slip down out of it; By this slight (as some have thought) but importunate temerity, although he had not the least ill intent, yet he merited (a multitude of people beholding it) that he

Nim. 7.  
9.

Numb. 4.  
15.

should suffer the punishment of a sudden death, which God then did inflict upon him. Indeed the Lord Jehovah had before declared that the *Ark of the Covenant* should not be carried in a Cart, but on the shoulders of the Priests, neither was it lawful for any, who was not of the *order of the Priesthood*, & of the Family of the *Koathites*, to carry the Ark, or to touch that *sacred vessel*, he that should presume to do it was to perish by an evil death; Therefore by this severe punishment on the first violator of that Law, God did strike into the hearts of men a reverence to the more strict observation of the Law, and preserved its *Authority*, that no man under any pretence whatsoever should boldly presume to do or to attempt against that which he had ordained; And the anger of the Lord was kindled against Uzzah, and God smote him there for his rashness, and he dyed by the Ark of God 2.Sam. 6. 7.

XIIII. The last argument is taken, from the inconveniences that do attend the contrary opinion, And they are many, I shall only urge but one instead of all, and it is often mentioned by St. *Augustine*, which is, that the restraint of the Law being taken away, all things would be carried at random, as the bars being broken, when once the waves of the Sea do exceed their banks they will not endure to be contained within any bounds, but will grow upon all places, by an unruly usurpation, that are farre or near them. *He who hath once transgressed the bounds of modesty will quickly grow into a height of impudence*, saith *Petronius*. But let us rather be attentive to St. *Augustine*, *Quod secleratissimum facinus, quod turpissimum flagitium, quod impiissimum sacrilegium, non dicatur fieri posse. recte atq; iuste*

*juste, si semel concesserimus, in omnibus malis operibus hominum ideo non quid fiat sed quare fiat querendum ut quaecunq; propter bonas causas facta obviandantur, nec ipsa mala esse judicentur.* What abominable act, what most filthy wickednesse, what most impious sacrilege, (Ah do you not guesse that he prophesied of this our age, and of our affairs?) may not be said to be done justly, and uprightly, if we shall once grant, that in all the evil works of men we are not to demand so much, what is done, as wherefore it is done, that so those things which are pretended to be done for good causes, may not at all of themselves be judged to be evil.

And again, *Cum concesseris admitendum esse aliquod malum ne aliquid gravius admittatur, non ex regula veritatis sed ex sua quisque cupiditate aut consuetudine metietur malum, et id putabit gravius quod ipse amplius exhorrescit, non quod amplius revera fugiendum est.* When you grant that some evil is to be admitted, that a greater one may be omitted, every one will be ready to measure that evil, not by the Rule of truth, but by his own desires, or by Custome, and will think that to be most grievous which he doth most abhorre, and not that which indeed is most to be avoyded.

The strength of the argument is in this, If evil things are to be done that good things may come thereby, when most sure it is that all things evil are not to be done, and not for all things that are good, we must put some limitation or rule to both these doubts, as first to know what evil is to be done that good may come thereof, and what not; and Secondly for what good things some things evil are to be done, and for what they are not to be done, or it must be left to every mans judgment, to arbitrate



trate according to the nature of the thing, and as himself shall think good, *what* is to be done, and *what* is not to be done, and *for what* it is to be done; If any of which be granted, there will be nothing safe amongst men, nothing sacred, nothing free from injuries, perjuries, deceits, rapine, slaughter, and destruction. Those things without which *Commonwealths* and the societies of men cannot be preserved, must all be banished from the earth, in which number are, *Religion, Justice, Righteousness, Faith, and Peace,*

XV. The *conclusion* which I undertook to prove, being now, as I conceive, sufficiently confirmed; I hope it will not be inconsonant, nor ungratefull, certainly not unprofitable to you, to derive some *corollaries* from it which may be usefull to us all for the institution of our *lives* and *manners*. It followeth therefore in the first place, from that which is already spoken, that all pious men must take heed, least being transported by a *zeal to the glory of God*, they be carryed away to unlawfull *Acts*. There is no true Christian will deny but that the *glory of God* is the *supreme* and *ultimate end* of all our actions. *Whether we eat, or drink, or whatsoever we do, it must be all done to the glory of God* 1 Cor. 10 31. But being transported with too hasty, and too preposterous a *zeal to the glory of God*, what contumelies, what slaughters, did not those men of *that faction* amongst the people of the Jews commit, who peculiarly were called *Zelots*; And amongst Christians in the memory of our Fathers the same things have been recorded (by men worthy of belief, and who were no ways ignorant of the transactions of the affairs of their times) to have been done in *Germany*, and other places

places by the *Anabaptists*, in whose *Chronologies* such horrid acts, and so far from all humanity are reported, that we should hardly have given any belief unto them, if we had not of late seen the same tragedies every day to be prodigiously acted to the life, by their unhappy off-spring, the dismal scene being translated into our *Britannies*.

XVI. That none of you may be deceived therefore with so splendid a deceit, and that you may not deceive others; Consider with your selves in the first place that all *Seducers*, the ministers of Satan, and instructed by Satan himself, the chief *Seducer*, who is accustomed to transform himself into an *Angel of light* have not more advanced themselves by any artifice, nor imposed more upon the belief of the common people of Christendom, nor more vigorously troubled the peace of our Churches, and Common-wealths than under the pretence of the glory of God, and of the reformation of Religion, and of the propagation of the Gospel, and of rooting out superstition, and of the exalting of the Kingdom of our Lord Jesus Christ. The most eminent of the Protestant Ministers in the preceeding age, as *Calvin*, *Bucer*, *Zuinglius* and others have all along in their writings grievously complaind of this; Amongst whom *Jerome Zanchius* a man second unto few in learning modesty and piety hath this expression, *Ego non intelligo istam reformatorem mundi Theologiam*, I do not understand this divinity of the new Reformers of the world. I would to God that the experience of what is daily acted amongst us did not confirm too much the truth of that vulgar Proverb, *In nomine Domini incipit omne malum*. Secondly, Consider with your selves with how great, and how perverse

1.

1 Cor. 12.

14.

Zanchius.

2.

a heat of Spirit, the *glory of God* is pretended to all wars, tumults, quarrelling, contentions, and unprofitable disputations, of which the holy Apostles of our *Lord Jesus* did hardly ever make mention of, (and full often they have mentioned it) but in order to *peace* and *brotherly-love*, and that sweet deportment in things indifferent, which especially becometh Christians, that so no man might abuse that liberty which we do by the benefit of Christ, to be an offence or a *stumbling-block* unto his Brother. In the third place consider, that the man who doth propound unto himself the *glory of God* to be his *End* must also propound unto himself the *Law of God*, to be the *Rule* of all his actions. *Ad Legem, & Testimonium, to the Law, and to the Testimony* Isa. 8. 20. Grant that the respect unto the *glory of God* is the *final cause* of thy acting, as it is fit it should be so, but the *Rule* and as it were the *formal Reason* of thy acting is not to be the *glory of God*, but his revealed *Will*; In the whole course of our lives the *glory of God* is to be looked upon as the *mark* or the *Goal*, to which we run, but we must look upon the *Rule* also, that so we may go the right way which doth bring us to it, lest that deservedly be objected to us which is commonly spoken, *Bene curritis sed extra viam, You run well, but you run out of the way.* Lastly, consider, that the *glory of God* in the respect of singular actions hath the estimation of an *end transcendental*. Now it is manifest that to a *Transcendent* no *Individual* can immediately be subjected, so not of any singular *Ens* or being, whether it be substantial, or accidental, is immediately subjected to the *summum Ens* or the chief being; Therefore as *Ens transcendental*, the *transcendental being* is verified of every

very being which is in one of the ten predicaments, whether it be universal, or singular, to the glory of God is the end of all duties, & of all acts thereto pertaining which expressly, and virtually are contained in any precept of the *Decalogue*; God is to be worshipped, our Parents honoured, our Neighbours beloved, our promises performed, *Justice, Truth, and Chastity* preserved, and other duties of *Piety and Charity* performed, to the honour and glory of God. Now as nothing hath truly the condition of an *End* or being which may not aptly be reduced to some species of it in some one of the ten predicaments, so no particular action, let men that mind their own ends say what they will to the contrary, can ever truly and properly be referred to the glory of God as to its end which is not reducible to some duty of piety and charity; grounded in some one of the ten *Commandments*, of the Law of God. He but deludes you therefore, who soever he is who obstreperously cries out *the glory of God, the glory of God*, and yet is not able to tell you by what commandment in the *Law of God* he can maintain that, which he vainly professeth that he performeth for the glory of God.

XVII. From the *Conclusion* above named it followeth in the second place that they are in a great error who think it is lawfull for them to commit a lesse sin than a greater sin might be avoyded, many things are alledged to maintain this error, as in the first place, that common saying which is in the mouth of every man, \* *Of evils we must choose the least*, and to give a reason for what they say, they alledge that of *Aristot.* that a † lesse evil being compared with a greater, may be taken for a good. To which



## The Second Lecture

which is added that of *Gregorius magnus*, *Dum mens inter minora, et maxima peccata constringitur si nullus omnino sine peccato evadendi alius patet, minora semper elegantur*, When the mind is perplexed betwixt less sins, and those of a higher nature, if there be no possibility to escape without sin, the lesse sins are always to be chosen. Neither to this are wanting the examples of godly men, in which that Act of *Lot* is remarkable above all the rest, for in the nineteenth of *Genesis* we do find that he perswaded the filthy and most impure Inhabitants of *Sodom* to the Act of *intemperancy* with his own Daughters, to divert them from more nefarious lusts. I should appear too tedious if I should here insist upon too many examples, to contract much therefore into few words, I

I.

say first of all that those words, *Of evils the least*, is properly, and primarily to be understood of the evils of *punishment* (as they call it) & not of the fault, that is to say not of *Sin*, but of *Externall evils* compared amongst themselves; In the same sense as *David* did, who, the choyce of three evils being propounded to him, viz. of *War*, *Famine* and *Pestilence*, did make choice of the least of those three: In the second place I affirm that the same proverb, is the interpretation of it, is extended to a further sense, For two evils being propounded, the one of *punishment*, the other of the *fault*, if neither of them can possibly be avoyded, but of necessity one of them must be chosen, the evil of the *punishment* is to be made choice of, and not the evil of the *fault*, for it is the least evil of the two, to suffer evil than to do evil. We ought therefore rather to choose, to lose our goods than to renounce our faith; and to suffer *transgression* than to be guilty of *perjury*; And from hence

1 SAM.

24. 14.

2. TIM.

2. 22.

vid. SUI.

2. 17.

hence it is that the *Martyrs*, of old, were indued with such a gallantry & strength of courage, as to be plundered, and tormented, and to lose their lives, rather than to burn incense unto Idols, or to consent to any thing which were dishonest, or unworthy the name of a Christian. In the third place, if it were propounded to any one to commit *two sins*, and most manifest it is unto his Conscience that both of them are *sins*, I do affirm that he is not to make any choice of either, but to eschew both of them. If you object, that put the case that neither of them can be avoided, but one of them must of necessity be committed, as those words of *Gregory* do manifestly imply, what will you perswade a man unto being in these streights. I answer, that this cannot be supposed, for seeing that all sin is so voluntary, that if it were not voluntary it were not sin, as *St. Augustine* truly affirms, it cannot be that any man should be brought into such a streight that of necessity he must sin, he therefore doth contradict himself who shall affirm that he committed such a sin being compelled by meer necessity, for there is no man sinneth unlesse it be by his own Will, and the will is so free that it cannot be compelled; And surely this is the sense of *St. Gregory* although at the first sight the words do seem to bear another construction, these words especially. (*Si nullus sine peccato evadendi necessitas ullius pateat*) But if it be impossible to make any *delinquens* without the committing of sin. For *St. Gregory* doth not here speak of two things propounded to be done, both whereof are *sins* (which is the subject of which we now do treat) but of two things whereof it is manifest to the person that doth commit them, that one is a sin, and the other by a mistake

*Idem  
vixit 74  
propheta  
vixit non  
Arist. 2.  
Eudem.  
11.  
Nulla est  
necessitas  
delinquendi  
di, quibus  
una est ne-  
cessitas  
non delin-  
quendi.  
Terr. de  
Cor. Mil.  
Cap. 11.  
of*

## The Second Lecture

of the Conscience is conceived by him to be a sin, when indeed it is not so, but upon some ungrounded suspicion, or some new scruple that doth invade his Conscience, he is affraid lest peradventure it be a sin, which case is different from our present institution.

XVIII. If you demand, is it lawfull for *Caius* to admit unto himself a les's sin to hinder a far greater one, which *Titius* otherwise would have committed, as to be guilty of some petty larceny, that the other might not commit a murder. I say with St. *Augustine*, that it is not lawfull, his words are these, *Si queratur quid duorum potius debuit evitare qui utrumq; non potuit, sed alterutrum potuit, respondet suum peccatum potius quam alienum. & levius potius quod suum, quam gravius quod alienum.* If it be demanded of me (saith he) what of the two he ought rather to avoid, who cannot eschew both sins, but may one of them. I answer his own sin rather than anothers, and more easily his own than anothers. The reason is ready, for it is in my power that I do not sin, but not if another sinneth. And thus he proceeds, *Ego utrumq; malum fieri nollem, sed id tantum cavere potui, ne fieret quod erat in mea potestate.* I would have neither of the two evils committed, but I could only be cautious in this, that the evill should not be committed which was in my power. But man-slaughter is a greater crime then theft, St. *Augustine* doth confesse it, and makes answer that nevertheless it is worse to allow a theft, then to suffer a man-slaughter; And to the same purpose he expresseth himself in another place, *Quantumlibet distet inter tuum & alienum, hoc tamen erit tuum illud alienum.* Let the crime be never so rightly stated, yet this shall be thy own, and

that shall be another mans. This is cleer, and I need no longer to insist upon it.

XIX. In the fifth place, if it be yet demanded, is it lawfull at least for any man to perswade a less evil to him who is ready to commit a greater, as if a man be ready to cut the throat of his enemy, to perswade him to inflict only some slight wound upon him. The speech of *Lot* to his fellow Citizens tendeth to this purpose; And there are many who differ in their judgment concerning it. I do not much wonder that *Chrysostome* doth excuse it, for it is the inclination of his *Genius* and in the same manner he excuseth all the infirmities of the *Patriarches*. *Ambrose* doth excuse him also, and so do many more, especially the *Antients*. But *St. Augustine* doth censure him as guilty of sin, and his judgment hath been approved of by many who since have followed him; and undoubtedly it doth appear, that this holy man out of a pious affection to his Guests, being extremely solicitous, that no force or injury should be offered to them, did some things, and peradventure spoke more out of the distemper of a troubled mind, than might easily be excused. Therefore to passe over this fact of *Lot*, we will return from the *Hypothesis* to the *Thesis*, or to the question now in hand; I do conceive that it is lawfull for a man to perswade a less evil unto his friend to avoid the commission of a greater. If peradventure you shall alledge, whosoever perswades a sin unto another, although it be but a little one, doth nevertheless perswade him to a sin, which whosoever doth do, he in that very Act doth make himself guilty of another mans sin. I make answer, that it is one thing absolutely to perswade a man to this or that



that *sin*, which whosoever doth, he doth undoubtedly *sin*, and another thing to perswade him to a *sin* conditionally, and upon that supposition that he cannot otherwise eschew a greater *sin*, which being supposed, and granted, he is not so much to be esteemed, to have induced by his Counsel another to a *less sin*, as to have diverted him from a greater and a more crying one, for he did not perswade him to *sin* as it was *sin*, but as it was a *less sin*, and the hinderer of a greater one. If you shall again object; If it be lawfull for me to perswade another man to make choyce of a *less sin*, why is it not lawfull for that man of his own accord to make choice of that *sin*, I not perswading him to it, nay, why may I not do that safely my self, which lawfully I do perswade unto another, and that is of two *sins* propounded to make choice of the *less*. Or of the three ways here spoken of, why is the first only thought to be lawfull, and neither of the two others, the manner and the account of all the three appearing to be the same. I make answer, and do constantly deny the condition and the reason of them to be the same, the difference being most manifest; that it is not lawfull for him on his accord, nor for me on my own accord to choose a *less sin* to avoid a greater, is because it being in both our powers (*respectively*) to forbear both, we are both obliged to make choice of neither, but that it is lawfull for me to perswade unto another, a *less sin* that a greater may be abandoned, doth proceed from this, that it is not in the power of me the perswader, ( for that is already supposed ) to hinder or to stop the course of either of them; I must do my endeavour indeed, as much as lies in the power of my perswasions, to give a stop  
unto

unto them both, but when I find that I cannot perform that, which above all I *would*, and have a desire to do, I do at the least perform that which I am *able*, and which I ought to do, to perswade to a *less sin* to hinder the commission of a *greater*.

XX. By these things hitherto discoursed of, it is easy to be understood, what is the sence of that Proverb, *E malis minimum*, Of evils the least, and what is the use of it in all humane consideration, whether it be applyed to the *evils* of punishment or to the *evils* of fault, for (as St. *Augustine* doth rightly lay down the state of the questions ) it holds and that universally also, and in both the *kind of evils*, as often as things do come so to pass when it lyes in our power, to eschew one of the two evils if not to avoid them both. Indeed every *evil* as it is an *evil* is to be eschewed by a pious and a prudent man as much as lyes in his power, therefore two kind of *evils*, of what kind soever, being propounded, he ought to avoid *both, if possible*, if not he may give ear to his admonisher, and choose that which is the least; Nevertheless it doth not follow that although he may choose the least of two *evils*, whether the *evil* of the *fault*, or the *evill* of *punishment*, that he may choose the least of two *sins*, for in *sins* both of them may be avoided as is already above demonstrated; And thus much concerning the second corallary.

Out of this principal *conclusion*, it followeth in the third place, that they are in no lesse, if not a greater error who conceive, that *sin* may drive out *sin*, as one nayl doth drive out another, as for example, *Superstition* is to be driven out by *Sacriledge* and *Tyranny* by *Sedition* &c. And this commonly is the

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error

error of those men who think themselves to be then most wise, when like Gardiners, when their plants and twigs being crooked, & stooping too much on the one side, they bend them so much on the other side, to make them straight, that they quite do break them off, and by taking too much care to avoid one extreme, they improvidently do fall into another, so.

Hor. Sa-  
tyr.

*Stulti dum vitant vitia in contraria currunt,*

*Whiles fools some vices strive to shun,  
Into their contraries they run*

Λογ. Β.

Whiles they endeavour to keep off from *Scylla*, they fall into *Charibdis*; And as that Aphorism hath some place in curing the affections of the body (which notwithstanding is not altogether approved by all the sons of *Esculapins*) viz. *Contraria contrariis curari, extrema extremis*, that Contraries by contraries, and extreames are cured by extreames, so in correcting the manners, and reforming the corruptions of the Church and Common-wealth, instead of remedy, it bringeth for the most part a certain ruine. Grave is that saying of *Sophocles*, in his *Stobæus*, *Ἐν ταῦθ' αὖ μὲν τοῖς πάντεσσι τῶν ἀνθρώπων νοσήσασθαι καὶ θέλωσι νῆσθαι κακὰ*. Hence it is that the affairs of mortals do so much decay, that with one evil they would cure another, and much of the same nature is that in his *Ajax*.

————— *Μὴ καὶ δὴ κακὸν δίδδης,*

*Ἀλλ' ὅτι πλέον τὸ πῆμα τῆς ἀτης ἴθις.*

*One being tame, no more ill medecines try,  
Best you contract some greater grief thereby.*

XXI. But

XXI. But if no other remedy can be procured for the publick evils, unlesse some golly coufenages be administred, and the lawes of God and men be violated, were it not better to suffer for a little time that such things should be done, than that the Common-wealth should be sick and perish? I do read indeed in the Holy Writ that *Chaiphaz* the high Priest of *Jerusalem* was of that opinion, who in the Senate of his Nation, all the respects to *Law* and *Justice* being laid aside, pronounced that *Jesus* *John 11.* though guilty of no crime, was to be put to death, <sup>30.</sup> because it was expedient; I do remember I heretofore have read that one of the Bishops of *Rome* being present at a great debate in the conclave of the Cardinals, when it was told him by one of them that the counsel which was then propounded did not appear to be just unto him, he made answer, *Although it may not be done by the way of justice yet it must be done by the way of expediency.* This you see what is the only way to be wise; This is the Divinity of those men whom they call *Politicians* taken (as I believe) from the counsels of the Jesuits, to measure all things by the profits of the holy mother the Church, to write the word of God himself as they please, and *this way* and *that way* to bend it like a nose of wax, and to inforce it to an interpretation for their own profit, according to their own sence; And as that *Lacedemonian* said, that all things at *Sparta* were honest which were profitable, these sparks of *Sparta* think nothing is filthy enough, nothing is to be avoided that may be subservient to their advantages; But fie on this mad Divinity, let it be far from our *Schools*, *Pulpits*, and *Breasts*. The holy Apostles of our Saviour, have far otherwise instruct-



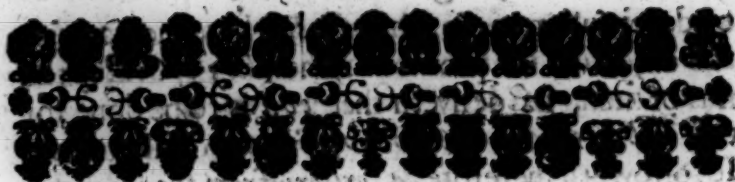
1 Cor. 10.  
23.

ed us, who would give no place to that question, *Is it expedient or not*, before they were fully satisfied in that other question, *is it lawfull or not?* Nay the more sober sort of the *Heathens* themselves were of another judgment, who as often as *Honesty* did seem to disagree with profit, they so always have made the reconcilement, that they have pronounced that the same is not profitable which is not also honest.

XXIII. But to make no long digression, St. Paul in this verse doth altogether deny, that *any evil is to be done that good may come thereby*, than which words what can be spoken more plainly, or effectually to prove our conclusion; But not long since I heard with these ears when those words of the *Apostle* were urged, and some then present could not otherwise defend what they so much desired to maintain, they made use of this distinction, that it was not lawfull indeed for a *private man* to do evil at his own pleasure *that good may come thereby*, and this was only that which St. Paul in these words did prohibit, but it was lawfull notwithstanding for the common-Council of a Nation to whose care it doth belong that the *Common-wealth* should receive no detriment to do it, if the *publick necessity* and the *safety of the people* do so require; *What* and how much is to be done for the safety of the people I shall hereafter God willing examine, and determine: In the mean time it is in the first place to be observed that this is but an extravagant suggestion, and that there is nothing in the whole discourse of St. Paul, on which that distinction may rely. Secondly, If we shall mark the force, and the scope of St. Pauls argument in this place, we shall perceive that all such limitations, and ridiculous inventions

of deceitfull men, for the *Apostle* here meets with the objection for promoting the *glory of God*, by the sins of men, he denyeth that *evil* is to be done for that *end* to render the *glory of God* more illustrious. It followeth therefore, *a fortiori*, from the stronger, that no evill things are to be done, for any thing that is inferiour to the *glory of God*; And seeing the *glory of God* is infinitely to be preferred to all humane good whatsoever, whether *publick*, or *private*, and it is not lawfull notwithstanding to do evil for *Gods glory*, certainly it is not lawfull for a *private man* or for the *Representatives* of a whole Commonalty for the redresse of any *publick* or *private inconvenience* to do *evil* themselves; or to commend it to be done by another.

XXIV. Let us meditate I beseech you ( my hearers ) on these things with our selves and that most seriously, and the worse that the dayes are, and the more that the snares of temptation are, and the assaults more violent, let us walk the more exactly, and look unto our steps with a greater circumspection, let us not suffer our selves by any machinations of the Devils, or allurements of flesh & the world to be led aside; though never so little, from that right, & that streight path of the Commandments of God; carrying allwayes in our memoryes that the evils which wittingly and willfully we have committed, shall find no excuse in that day when *God* shall be our *Iudge*, and our *Consciences* our *witnesses*. And thus much concerning the pretence of a *good Intention*: what remaineth to be spoken concerning the *examples & placits* of men, so far as it appertaineth to the regiment of conscience, I will ( *God willing* ) proceed to give you a full account of it in my following Lecture.



THE  
THIRD LECTURE,

In which is declared that neither in  
the examples of good men, nor  
the judgment of experienced  
men, there is protection e-  
nough to secure the  
*Conscience.*

GAL. 2. 13.

*And the other Jews  
dissembled likewise with him, insomuch that Barna-  
bas was brought into their dissimulation also.*



Having propounded to my self to  
examine and discover to you the  
adequate rule of Conscience which  
is to be the certain and safe Law  
how to lead our lives; I conceived  
it in the first place most necessary  
to declare unto you in what a grievous & dangerous  
error they are, who think in the things they

do they provide well enough for the security of their own Consciences, if either by the flattering intention of some *good end*, or the *example* of some holy man, or the *authority* and *judgment* of a man famous for learning and *piety*, they can any ways defend themselves and what they have done; And truly how little protection there is in a bare *good intention* either as to the benefit of the Conscience or the confidence of any good work, without the other concomitants of it, I think hath been sufficiently declared by me in my former Lecture, where by many reasons I have convinced, that *no evil is to be done that good may ensue thereby*. It remaineth that this day, I do represent unto you, that neither the *example* nor the *judgment* of any man ought to be of so great *authority* with us, that our *Consciences* may securely rest in either of them; and neither from that alone can we duely conclude, that all things which are passed are rightly done, or those things for the time to come are simply lawfull to be done, which another man indued with never so much *learning* and *sanctity* hath either done himself, or hath judged lawfull to be put into practice by another.

II. Moreover, how unsafe it is to frame our lives and actions to the examples of other men, and how unsatisfying it is to the security of the Conscience to defend our selves by alledging, that whatsoever we have done or are about to do, hath been done already by some pious man before us, may by a most clear argument appear by the words of the proposed Text, especially if we shall go a little higher and derive the ground and the occasion of them from the History of the thing performed. *St. Peter*



the Apostle living at *Antioch* amongst the Gentiles converted to the Christian faith, who were not bound in conscience to the observation of the Law of *Moses*, did freely eat with them, and did partake of whatsoever meats were set before him, as well prohibited as permitted to the people of the Jewes, without the least scruple according to the liberty which he had in Christ. But when some Christians of the nation of the Jewes came to *Antioch* from Jerusalem, whither they were those *false brethren* ~~μαρσιωνισται~~ *Jews* ~~διδασκαλοι~~ of whom mention is made in the fourth verse of this 2 of the *Galatians*, who pretending that they came from *James* did indeed creep in privily of themselves, to observe the liberty of St. *Paul*, and other Christians, as some do think, or rather (as others are of opinion, and more probably) whether they were *weak Brethren* sent indeed by St. *James*, but as yet not thoroughly instructed concerning the cessation of the Rites and Ceremonies of the Law; St. *Peter* desiring to be gracious with them, or rather fearing to give them an offence, did immediately, and altogether, abstain from the Tables, and the society of the Gentiles, and from the meats forbidden in the Law of *Moses*, by whose example the *Jews* of *Antioch* being induced, who by the Sermons of *Paul* and his fellow labourers in Christ had been taught the Christian liberty a little better than those that came from Jerusalem, and more fully understood the abolishing of the ceremonial Law, yet being but weak themselves, and more addicted to the ceremonies to which a long time they had been accustomed, they easily suffered themselves to be separated from the communion of their brethren the believing Gentiles, not without some suspicion

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(as it is probable) that *Peter* the chief of the Apostles, was the more competent judge of these things, & what was to be done, & that themselves were hitherto drawn in by *Paul* with the gratefull but the empty shew of liberty; and what is more to be admired (for it is not strange or unaccustomed for the weaker sort to stumble) even *Barnabas* himself, who was *St. Pauls* colleague, and his daily companion in his journeys, who constantly asserted the Doctrine of *Christian liberty* against the Jews, being overcome by the authority of so great an Apostle, did stoop with him into the same fellowship of dissimulation, not without a great offence to the believing Gentiles.

III. *Paul* doth here declare, that for this fact *St. Peter* was reprehended by him, and that vehemently, openly, and deservedly; Not only that he himself, to the scandal of so many of the brethren, out of too great desire of complacence, or the fear of offence, had shewed himself more favourable to the Jewish ceremonies, than did become him, but that he drew others by his example into the same participation of Hypocrisie with him, and by the same example had endeavoured to inforce the believing Gentiles, although unwilling, and against their Consciences, unto *Judaisme*: I am not ignorant that *St. Hierom* (having alleged some other Authors that jump with him in that opinion) doth give a far different interpretation of this reproof, than what I here have specified, viz. That this affair was not carryed *seriously*, and as indeed it was betwixt these two chiefest of the Apostles, but *κατὰ συνουσίαν*, and by contrivance, the benefit of the Church at that time so requiring it. Indeed he would

would perswade us that this *dissimulation* of St. Peter was necessary to retain the good opinion of the Jews, which that it might not be too dangerous to the Gentiles, this *counterfeit* reproof of St. Paul was altogether as necessary, by which the *error* of the Jews, concerning the continuing force of the ceremonial Rites might be so corrected, that by the same endeavour, provision should be made that no danger of scandal should be given to the Gentiles. And thus by the conjoynd *dissimulation* of both the Apostles, it was so effected, that the Jewes as well as the Gentiles should by this *pious fraud* be more easily retained, in the faith of Christ, which not long they had imbraced. These words therefore *κατα προσωπον αυτου αυτεστην* are so handsomly interpreted by him to maintain his own opinion (as above all other of the Fathers he is accustomed *δυναμις τῷ ὑμῶν*, to serve those assertions which are but his own conjectures) that the words he *wisstood him to the face* do not in his construction signifie, openly, and before the people, or to his own face, but only under a pretence and shew, and according to the outward appearance, in which construction these words *κατα προσωπον* are by him usurped also, as it is manifest 2 Cor. 10. 7.

IV. This opinion of St. Hierome was nothing pleasing to St. Augustine, who denieth that any thing was here done by *contract* or *contrivance*, but that St. Paul most sincerely, and exprsely did oppose himself to this unreasonable combination; he therefore in a letter did very friendly admonish St. Hierome of his errour, who persisting more obstinate in his opinion, ( letters being often sent from the one to the other ) the question began to be disputed

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red betwixt them ( as became the contestation of two such great wits ) with much acutenesse on both sides, and with solid weights of reason; at the last in the judgment of most men, the victory stood on St. *Augustines* side, and his arguments being conceived to be more sound, and more considerable, but very few did adhere to the opinion of *Chrysostome*; in which it is not to be wondred at, if *Cardinall Baronius* were one, who being carefull that the affairs of *Rome* should not suffer any diminution, and that the infallibility of his *Fove of the Capitoll* should not grow into contempt, if any stain of rashness or error should blemish the reputation of St. *Peter*, or if any man should be so bold to reprove him, or to dare to open his mouth against him, by sayings ( *Master why do you so.* ) doth here use all his art and industry to crown with applause the exploded opinion of St. *Hierome*, and to restore it unto honor, though banished, and begging for reputation all the World over; but truly this is that *Baronius* ( as every where he doth betray himself to be partiall ) who in his voluminous, and laborious *Chronicles* did make it all his busines to gratify the *Bishop of Rome*, and to measure the faith and Authority of all monuments and the great moments of all opinions and testimonies by the dignity and Advancement of the *Sea of Rome*. But *Paul* ( to return from whence I have digressed ) did most justly reprove St. *Peter* his fellow Apostle *anapa apostolos*; that is face to face ( as the same phrase is read in the 15 of the *Acts* and in other places ) of importunate dissimulation, and this he did boldly and openly before all, and more especially because that by his example he had drawn *Barnabas* into an error, and the  
Jews



*Jews of Antioch*, and given a great, and a greivous offence to the *Gentiles* who had newly imbraced the Christian faith to the great danger and scandal of the liberty of the Gospel.

V. I have more willingly enlarged my self upon this, as well to give some light to a place heretofore obscure, and much controverted, as to make more manifest the force of the argument which for the confirmation of our *position* is deduced from this discourse of the *Apostle*. For *St. Paul* judged that not only *St. Peter* who was the *leading example*, but that *Barnabas*, and others also who followed him, and did consent to the same dissimulation, were to be noted, *as in o'glowed ou' slas* as men that did not tread with an upright foot, nor walked according to the simplicity of the truth of Christ: By which it is most evident, that *St. Paul* being Judge, it would render no great advantage unto uncertain *Barnabas*, and halting as it were betwixt *Judaism* and *Christianism* to call into the patronage of his dissimulation the example of *St. Peter*, although of the highest estimation amongst the *Apostles*; but grant that *Peter* was worthy of a sharper reprehension, because that by his example he became a *stumbling block* to another, nevertheless *Barnabas* is not the more to be excused, that he transgressed by following the example of another; And this may suffice concerning our first argument taken from the Text of *St. Paul*.

VI. The second argument is derived from the difficulty of judging, for seeing that all the deeds of the righteous are not to be imitated, it is no obvious thing to understand what deeds of theirs are to be *exemplar*; and what not; and that by reason of a *twofold uncertainty* that is in them; For it may so come

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come to passe both ways, that what a righteous man hath done, may not be *well done*, and hath been well done by him, is nevertheless not to be imitated by us. In the first place most certain it is, that those deeds of theirs which are *ill done* are not to be imitated, and that the most holy of men have had their blemishes, and infirmities, it having pleased the most wise God to permit them to fall sometimes into the most grievous sins, of *murder, adultery, idolatry*, and the *renouncing of their faiths*, that they might consider that they are but men, and by their own experience that they as well do partake with, as they do pardon the mistreadings of another, that so they might not trust in their own strengths against temptations but depend altogether on the assistance of God, and if *unconquered, unshaken, or unhurt* they have sustayned the most violent assaults of temptations, that they may acknowledge it to proceed wholly from the *providence*, and the *grace* of God; and it hath pleased him who *worketh all in all according to the counsels of his own will*, that some of their *foulest defects* should *punctually* be expressed in the book of *holy Writ*, that so *illustrions, and never dying examples* should remain unto all ages, on the one side of humane *frailty* and *inconstancy*, and on the other of the *Divine goodness and mercy*.

VII. Peradventure it will be here objected. It is true indeed, that those Examples of the Saints are not to be imitated, which in the word of God are expressly noted to be ill done, for what sober man will propound unto himself either the *abnegation* of *St. Peter*, or the *adultery* of *David*, as examples for him to imitate; Neverthelesse it doth seem that we may safely take examples from those acts of theirs

theirs which are so recorded in the Scriptures, that they are there as free from *dispraise*, as from any tincture of *guilt*; I make answer, that this is not to be done, for in the Scriptures (as every where in other Histories) the deeds of many men are only *historically* and nakedly related, just as they were done, & are neither expressly *commended*, or *discommended* by the Writers, notwithstanding it is not to be doubted, that some of them were unjust, some of them dishonest, and far from the duty of a godly man; And many other things there are recorded of, which we may not undeservedly doubt, whether they were well done or ill done, concerning which the Interpreters are accustomed to express themselves probably and liberally on both sides; Of such a nature is that act of *Lot*, offering the violation of his Daughters Virginities to the impure Citizens of *Sodom*, and that act of *Joseph* swearing as it is Gen. 19, thought by the life of *Pharaoh*; and that act of *Jacob*, craftily stealing from *Esau* his brother, the benediction of his father; and many other examples of the same nature, which if any man shall adventure to follow, on this presumption only, that he hath read the same things to be acted by godly men, and not to be condemned, he shall object himself to a most certain *danger* of error and of sin, by *subjecting* his Conscience to a most uncertain Law.

VIII. But you will say, we may safely howsoever follow those examples which expressly are commended in the word of God; I make answer, that even *this* also is not *simply* to be granted, for in the first place I say, that whatsoever *deeds* of men are openly condemned in the word of God to be vicious, they are simply to be eschewed; for the strength and

and use of bad examples are more powerfull to argue *negatively* upon them, than of good examples to argue *affirmatively*, which manner of arguing our Apostle useth, 1 Cor. 10. 6. &c. where having propounded out of the History of the old Testament the examples of several sorts of sins, as also of the judgments of God upon the prevaricators of his Law, he doth admonish that all of us would look upon them as *types* and examples, not to imitate, but to eschew them.

That we may not *lust* after evil things as some of them *lusted*, nor worship *Idols*, nor commit *fornication*, nor *tempt Christ*, nor *murmur* in afflictions as they have done.

*ut fage-  
rem, exem-  
plis viti-  
orum que-  
re munda-  
do. 1 Sa-  
tyr. 4.*

*Hor quidem non belle, nunquid ego illi  
Imprudens olim faciam simile: Horat. ibid.*

*This is not well, but silly Elf,  
Shall not I do the like my self.*

IX. In the second place I do affirm that what *Deeds* in the Scriptures are expressly prayed, and are so prayed, that they may seem to be propounded to us for Examples, are notwithstanding not suddainly, and headily to be followed by us, neither must we imagine that the whole aggregate Action, as it was at first performed, is commended unto us to imitate; But we must use *choyce* and *caution* to imitate those things which are commendable, on that part only of them, and intirely on that account for which they are commended. The reason of this *Caution* is, because that God oftentimes in a *mixt Action* according to his infinite good-



goodnesse, doth approve and look upon that only in it which is *Good*, and doth passe by, and as it were takes no notice of that in it which is *Evil*; As in the 16 Luke 8. *The Lord praised the unjust Steward, because he had done wisely*; although in the same Act he had hazarded the *Reputation* of his *Trust*. The *Wisdom* therefore, and not the *Injustice* of that *Steward*, is to be imitated; Again in that commended Example of the *Egyptian Midwives* preserving the new-born of the *Israelites*, and by a *Lye* excusing their contempt of the Kings Commandement, their *Lye* is not to be numbred with their *humanity* and their *piety*, but carefully to be severed, and distinguished from it, for their *Lye* was a *Vice*, and not to be followed, but their *humanity* and their *piety* is praised by God, and they both deserve our *Imitation*.

X. In the third place I say, that the extraordinary *achievements* of the *Worthies* are praised in the Scriptures which, being stirred up by a peculiar motion and inspiration of the holy Spirit they performed as it were by a peculiar mandate, and beyond the ordinary Law, and yet notwithstanding those *achievements* are not to be followed. Of this Nature, is that remarkable Act of *Phineas*, for which he received both *commendations* and *recompence* from God himself, for being but a private Man, and invested with no Lawful Authority, he did notwithstanding with his Spear, run through the bodies of those two shamelesse persons, whom he had taken in the Act of Incontinency. *Numb. 25. 8.* And of the same nature was that of *Elias* the Prophet, who having called *Fire* down from Heaven destroyed the Souldiers that were sent to secure him.

him. 2 Kings 4. 10. &c. Which Act of his, when two of the Disciples of Christ James and John desiring to imitate, having asked counsel of their Master concerning it, he was so far from approving their rash desires, that he did reject them, and gave a great check to their Cholerick Importunity, *Luke 9 34*  
*You know not* (saith he) *of what Spirit you are*; As if he should have said, forbear the extravagant heats of your unquiet minds, and contain your selves within the bounds of your Vocation; If *Elias* heretofore did any thing severely, do not you suppose that the same thing is fitting to be performed by you. That which he did, was effected by the extraordinary Spirit of God, which inwardly did suggest and direct him, and was like unto that particular Mandate which was given to *Abraham* to kill his Son *Isaac*, But this belongs not to you whom the Spirit of God hath not yet called to the Execution of so extraordinary and so high a charge, you ought not to entertain any thought of attempting it.

XI. Seeing therefore it is not alwayes certain that what hath been performed by a Godly Man, ought to be commended, and though it hath been commended, it ought not unpremeditatedly to be imitated, it is far more conducive to the security of our Consciences to bring home and conform our Deeds to the Rule of the Law which is certain, than to follow the uncertain Examples of Men. Most true is that of St. *Augustine*, *Hæc quæ in Scripturis sanctis legimus, non ideo quia facta credimus, etiam facienda credamus: ne violemus præcepta, dum passim sectamur exempla.* We ought not to believe that these things which we read in the Holy Scriptures, are therefore to be done again, because, that already they have

have been performed, least we violate the precepts, whiles every where we do follow the Examples. And after other words to the same purpose, he doth thus conclude; *Unde constat, quod non omnia quæ à Sanctis et justis viris legimus facta transferre debemus ad mores.* From hence it is manifest, that we ought not to translate all things into practice and manners which we do read to have been performed by holy and just men. And thus far of our second Argument concerning the difficulty of judging the examples of Godly men by reason of the great uncertainty which is in them.

XII. The third Argument followeth, taken from the difficulty of rightly applying the Examples of other men, to our own Affairs and Actions, by reason of the uncertainty of the Circumstances which being of an infinite variety, do also infinitely vary the qualities of humane Actions; That which is free and lawful in the Thesis, that is, the Positions, is so also in the Hypothesis or Supposition, the same Circumstances remaining, I call that lawful which may be done without Sin, and that free, which without Sin may be omitted; now the same thing (any one circumstance being added or taken away, or any wayes changed) may be made unlawful of that which was Lawful, and necessary of that which before was free; and this we see every day by Experience in our Courts of Law, when pleadings are made at the Bar, where by the advocate of one side, the preceding Examples of Cases before judged are cited for the advantage of their Cause, and it is answered by the Advocate of the other side, that there is not in both Cases the same Reason of Law, that the Circumstances are varied, from whence it comes to  
 passe

passé that the Case is altered, and those things which were cited to be reported, and to be judged of before; do not appertain to the Suit now in Controversie; But if that rightly the Case be demonstrated, the whole frame of the Defence which did support it self on this Foundation, doth presently fall to the ground; And the precedent taken heretofore of the things that have been so judged, will be of no moment at all with the Judges. From hence it comes to passe, that amongst the several kinds of Argumentation with Logicians, the *Exemplum* or *Example* is ranked amongst the last, as more fit to illustrate than to demonstrate a thing. And certainly if that of *Fabius* be true, *Tot seculis nullam repertam esse causam qua sit tota alteri similis*; In so many ages there hath never yet any cause been found which hath been altogether like to one another; Its likely enough that very easily he may Erre, who by the condition of one cause doth hastily passe his Judgement on another like unto it, having not first with all diligence weighed with himself the circumstances of them both.

XIII. In which consideration we are so much the more ready to fall into an error because we are most of us of such a temper, that in the application of the examples of others unto our selves, we only look upon the bare fact, and greedily make use of it by enforcing it to our purpose, especially if it seems to comply with our affections, and the desires of our hearts, in the mean time taking not into our least consideration, either the causes of the fact, or of the end, or the manner of the circumstances of it, especially if they are not suitable or complacent unto us. The Prophet *Amos* in the sixth Chapter,



and fifth verse, doth reprove some of his time, who in the midst of publick calamities, being too slothfull and secure, did delight themselves in Riot and all manner of pleasures, and amongst other things did whisper unto themselves *that like unto David they did invent unto themselves instruments of Musick*, as if they should have said, *why should that be condemned in us to be a Vice*, which was a praise and honour unto David. That Holy Man did exercise himself in Psalms, and Instruments of Musick; And we do the like; but in the mean time we do dissemble with our selves, and fail in that which principally was to be imitated in David, for he did it to the Honour of God, and the Solemnity of his worship in publick, and not to the excesse in Bankettings, and the fomenting of Sloth and Wantonnesse.

XIV. The Rhetoricians do give many Precepts concerning Imitation in Oratory, to wit, that it will be profitable for him who would be an Orator to propound unto himself some remarkable person, who is excellent in the Art of Speaking whom he must indeavour to imitate; which also the Philosophers do make mention of as a salubrious precept for the institution of our lives. Seneca doth exhort us to the Example of some famous and excellent person for the better composition of our lives, & manners, *for the way by precepts, he saith, is tedious, which is made but short and more effectual by Examples.* Examples moreover do carry with them a kind of secret delight, and have joyned to them as much profit as perswasion, as we may see in little Children, who unwillingly do obey the commands of others, but take a great pleasure to imitate their Acts; Those men neverthelesse who  
give

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give these Counsels do withal advise us, that to *live well and happily*, we ought to have a sound judgment to make a wise choice, both of the men whom we would propound unto our selves for examples, and of the things themselves which we are to imitate; *Fabius* derides those weak Orators, who endeavouring by a vain affectation, and empty circumstance of words, to imitate the style of *Cicero*, do conceive they have performed something rare and happy if they can often but conclude with an *esse videatur*; And *Tully* himself doth reprove the perverse diligence of some men in this particular, who having propounded to themselves some famous Orator for examples, do imitate nothing of them but their infirmities; Such a man was *Fusius* an evil imitator of a good Orator, *Caius Fimbria*, *Nervus* *Caii Fimbria in dicendo*, (saith *Tully*) *non assequitur, oris pravitatem imitatur*, He attains not to the soundnesse and pithinesse of *Caius Fimbria* in speaking, he imitates only the imperfection of his speech. *Nazianzen* relateth that *Bazil* Bishop of *Casaria*, (by reason of his great piety, and learning, called commonly *Bazil the great*) was had in such a reverent esteem by all men, that not a few did studiously affect, and strove to have some resemblance of his bodily infirmities, as of the paleness of his countenance, his slow gait, and pronunciation of his words, and other defects of his body. In the same nature others do attest, that there were not some wanting who with all their industry did endeavour to counterfeit the drawling of the great Orator *Demosthenes*, and the stammering of the famous Philosopher *Aristotle*. O *Imitatores servum pecus*! saith *Horace*, 1 *Epist.* 19.

XV. These things and a thousand more like unto them, which every day we read of in approved Authors, being all of them the examples of a *perverse imitation*, would provoke our mirth rather than our choler, if this perverseness consisted only in *words* & in the outward *habit and gesture of the body*, and had no place at all in our *lives and manners*. But here also, nothing peradventure more unfrequently, but certainly far more dangerously, *Decipit exemplar vitiis imitabile*, *The example doth deceive being viciously resembled*, whiles too indulgent to our own affections, and transported by the pravity of our desires, out of the abundant heaps of examples, we make choice of those most willingly, and in them doe most vehemently urge those *circumstances*, which seem most suitable to that side, to which already our minds do incline, that so we may the better serve our vain *affections and desires*. And this, who-soever shall more diligently peruse the books published by the *Anabaptists* and *Brownists* and other Sectaries, of that complexion, or what some few years before have been written by their true predecessors the *Puritan Reformers* he shall most readily find to be egregiously performed by those who make it their business to disturb the *order of the Church* & the peace of the *Common-wealth*, and that I may give you some testimony of the perverseness of these mens spirits, (which I hope I shall perform without just offence to any sober man) give me leave I pray you but briefly to examine one of their arguments, taken (as they alledge from the example of *Christ* and the *Apostle*;) which being handled large enough, and with great animosity by them how solidly, and sincerely they have carryed themselves therein, I shall

shall leave it unto you to judge.

XVI. About forty years since there came forth a book published by some Ministers of the Diocesse of Excester ( for there were many heads and hands in it ) against the Rite of kneeling at the receiving of the Sacrament. Amongst other arguments which they had every where sought for, and brought together, they seemed to triumph most in this, which they say was taken from the example of Christ himself, The sum and strength of the argument lyes in this. It is not lawfull for a Christian in any religious action pertaining to the worship of God, to recede a jot from the example of Christ and the Apostles, the action being imitable, as every action of Christ is to be imitated, and being rightly followed by others, ought to be imitated as well by all Christians ; But Christ and his Apostles did receive the holy supper in another posture than kneeling, therefore we Christians also ought to do the like ; This so weak and so pittypfull a Sophism, being imposed not only on the unlearned people but on others also, who, if they were more wise, it would be better with the Church of Christ, it will not be labour lost to propound some things unto you which may abundantly demonstrate to you the vanity of the whole argumentation.

XVII. In the first place therefore, observe that here is a *metabasis eis allo genos* a transition to a thing of another kind, which is so foul an error that it is hardly to be pardoned in School-boys, for the whole controversie being altogether of the gesture, they dispute here with much importunity on another Subject, which is of Actions only. Let us grant that every action of Christ is to be imi-



rated, but who will say that *gesture* is an *action*, there being so wide a disparity and and disproportion betwixt them, that they are not in the capacity of one common *Genus*, but do properly belong to two distinct prædicaments, for *gesture* belongeth to *Situs* or the prædicament of *posture*, and *Action* to another proper prædicament of its own name.

XVIII. In the second place observe, that the four last prædicaments are of a *lower extract*, viz. *Ubi*, *Quando*, *Situs*, and *Habitus*, the *where*, the *when*, the *gesture*, and *habit*, are almost of one estimation and account in respect of those *actions* to which as it were they are added as Concomitants, for they are nothing else but some *relations* of an inferiour note, and *circumstances* altogether extrinſical to the actions themselves; It seems not therefore agreeable to reason that by the force of the *example of Christ & the Apostles* we should be obliged to the imitation of one of them only, which is in the *gesture*, & that in the other three, viz. the *where*, the *when*, and the *habit*, we have no obligation even in the judgment of those men who do urge this example; For as to the *where* they themselves do not hold it necessary whether the *Sacrament* or *holy Eucharist* be celebrated in *private houses* below or in *τὰ ὕψωα* in the upper room thereof; Neither do they hold themselves obliged as to the *when*, whether it be after supper, or in the dusk of the Evening, nor as to the *habit*, whether it be solemnized by a Minister in a *Semecalos coat*, notwithstanding that all these particulars were observed in the first institution of the supper, it is apparent in the sacred History, neither is it denied by themselves; Since therefore they themselves do assume the *liberty*, and do grant it unto others, that

that with a safe Conscience it is lawfull for them in all these things to recede from the practice of Christ, and his Apostles, I would willingly learn from these new masters what it is that is so singular in the prædicament of *Situs*, or of *gesture*, that it is so much to be ranked either above or beneath the estimation of the rest of its Consorts, & it is not lawfull without great Sacriledge to startle the least on this side or on that side from that *primitive example*. Surely it is but reason that these four prædicaments should either go hand in hand, or walk with an even pace together, or some reason for the difference should be assigned, that we may understand wherefore it is not to be done, which as yet, as far as I can learn, they have neither performed, nor attempted.

XIX. In the third place observe again, that seeing every *Act exemplar* ought to be so certain that it cannot be denied, it is not so clearly manifest by any Text of Scripture, that should it be denied, that could be proved which they assume, and I willingly will grant, *viz.* that Christ and the Apostles did not celebrate that *first Supper* with bended knees but in some other gesture. But they will object doth not that word *αἰκνῶντες* in the Gospels intimate only a *tricliniary gesture*, by lying along on a bed, which was familiar to those times, and Countries? I answer, *no*, & altogether do deny, that any certain kind of *gesture* can be proved by the signification only of that word. From that kind of gesture which heretofore at Dinner or Supper was used in Parlours was the Greek word *αἰκνῶντες* derived, and the Latin word *discumbere* which is to *sit* or to *lye down*, but he will put the weight and force of the words in a very

very unrighteous ballance, whosoever, after they are grown more old by use, and of a far larger extent, shall endeavour to bring them back again to their first Cradles, & to include them within their antient limits. Those two words therefore in the common use of speaking, do signifie that *act* by which we do purposely and usually apply our selves in some commodious place to eat our meat, in whatsoever *gesture* or *posture* of the body it be done, whether it be by *standing*, or *sitting*, or *kneeling*, or *lying down*, properly or improperly so called.

XX. But although by the force of the word in the original we cannot prove it, yet ( by some circumstances of the History ) it may very probably be collected, that *Christ* and the *Apostles* in that first Supper, did use a *tricliniary gesture* by lying along on beds, where in the fourth place observe, that our new Dictators do not obey themselves that Law which they impose upon the Consciences of others; For if *Christ* in the institution of the holy Supper did use a *tricliniary gesture*, his feet, and all the lower part of his body being stretched forth on a bed, and leaning with the upper part thereof on his elbow, why do not these men, who are so hot upon it in their disputations imitate this example of *Christ*, which undoubtedly they may? why do they not provide themselves with *beds*, and *parlours* that so being provided with all things necessary, they may be made partakers of the *holy Table* in the same *gesture* which *Christ* and his *Apostles* used? From which gesture it is most certain that those doe differ who either *stand* or *sit*, ( the one of which they both do themselves, and perswade others to it ( as much as those who kneel upon their knees: If they

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they shall object, as some of them do, that in this Western part of the world, the *tricliniary* gesture is out of use, and therefore we are not obliged to the same posture in the same specific manner of it; nevertheless by the force of that primitive example we are bound to observe the same posture as to the generality of it, that is, that at least we may use the *Table* gesture which according to the custome of our Nation, is *anological* and successive to it, as they then used that gesture, which after the fashion of those times and places was accustomed to be observed. But let them feed the people with such deceits; Is it possible for men out of a *prejudicate* affection, and a vain desire of contradicting, to sink so much from understanding as to thrust into the world such empty conceits for solid ones, or to think to impose on any sober man such ridiculous assertions; which how vain, and how empty they are, that I may briefly and cleerly shew, I must desire those men that do so dispute, directly and without any tergiversation to answer to these few Interrogatories.

XXI. In the first place I do demand, that seeing it is so certain that *Christ*, if he used the *tricliniary* gesture, that he did not eat, neither *sitting* nor *standing*, as sure it is that he did not eat *kneeling on his knees*, why by the power of the same example are we not obliged in the act and instant of communicating to abstain as well from *sitting* or from *standing* as from *kneeling*? For by the same supposition it doth follow that there is not any one of the said three Postures which is not as destitute of the example of *Christ*, as the other two. It is therefore most right (as a little above was spoken of the four



### The Third Lecture

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four last predicaments ) that these three should enjoy the same privilege, and be either all of them *condemned* as guilty, or acquitted as blameless; If they shall reply, as it is their usual refuge, that by the custom of the Nation *sitting* or *standing* did succeed the *tricliniary Gesture* and not *kneeling*. I demand in the second place, how comes it about, that only the silent custome of any Nation (suppose the English) should be of power, that *sitting* or *standing* should succeed the *tricliniary gesture*, or lying down on the bed, at our *common tables*, and the positive Law of the same Nation should not suffice, that *kneeling* should succeed the same *Gesture at the Sacred Table*. Can a Custom changed without any publick Authority sensibly so prevail, that what before was not *un-decent*, or *un-lawful*, must now no longer be *decent*, and no longer *lawful*? Cannot a Law *inacted* by *Publick Authority*, and established by an expresse consent of the people, and allowed of by dayly use, prevail, that what upon no lawful reasons was ever found to be ever unlawful, should be esteemed lawful again for the time to come? Indeed, where these two things *Law* and *Conscience* do fight between themselves (as hardly they do in this case) there is no man of a sober understanding but will acknowledge; that Custome should give place to *Law*, and not *Law* to *Custome*. In the third place, I demand of them, do they seriously believe, or do they not believe, that he sinneth immediately in that Act who receiveth the *Communion with bended knees*? If they shall say that he Sinneth, seeing that every Sin is a transgression of the Law of God, let them shew me some precept in that Law against which he that so doth, Sinner

*Concerning the Examples of good men.*

93

neth? If they shall acknowledge that it may be done without Sin, then by their own confession they will level their own Rise, and overthrow all the force of their Arguments. In the fourth place, suppose that the said *tricliniary gesture* had been abolished before the first institution of the *Holy Supper*, and that *Sitting* or *Standing* did succeed it, so that *Christ* and his *Apostles* must have eaten either *Standing* or *Sitting*, both of which could not be used at one time; I demand if they had eaten *Standing*, whether it were so necessary for us to stand also, that we should have sinned if we had sate, and on the contrary, or whether we might have been free to have used which we would? If they should say, that we are free for both, the Argument taken from the Example of *Christ*, will be of no power, and will fall to the Ground, for he used only but one of the said Gestures, and not both of them. If they shall say again, that we are precisely bound up to the observation of that posture which is supposed was used by our Saviour, wherefore do these so severe Dictators, and Controulers of the Liberty of every Church, admit unto them an Indulgence of *Standing* or *Sitting* at the *Holy Supper*, but not of kneeling, or of that posture which it is most probable, that our Saviour used? In the fifth place I demand, If the Example of *Christ* doth oblige us to the Imitation of it, why is this obligation precisely determined in that posture, which is but a subalternate *Species*, and hath no reference to some higher *Genus*, or why doth it not fall lower to some more *inferiour Species*? To make it more obvious to your understandings, seeing those three things are to be considered. The *gesture* or Posture

4.

5.

Posture it self, as a *superior Genus*, the *Posture at the Table* as a *Species subalternate* to it; And the *Posture of lying along and leaning*, as the *lowest Species*; And it is probable that Christ used the last according to the custom and practice of those Times, and Climates, why must the *posture only at the Table*, which is but an *intermedial* and a *subalternate Species* be accounted necessary and sufficient to the true Imitation of Christ, and not any other *posture* sufficient in the *Genus* of it, or why may not the *posture of Leaning and lying along* be as necessary in the *Species*. Lastly I demand, Is the *posture of leaning and lying along* practised by our Saviour and the Apostles at the first institution of the Holy Supper to be imitated or not? I am confident they will not deny that it is to be imitated, for indeed they cannot deny it, because from thence they do derive the chiefest ground and foundation of their Cause; For thus they do propound the examples of Christ of necessity to be imitated by us, that is to say, not every example simply in it self, but every example that may be practised by us; I Only therefore in this argumentation take *that* which they of their own accord do grant, which is, 1st. the proposition, *That every imitable example of Christ* doth oblige a Christian to the imitation of it. And 2ly. the assumption, that the *posture in the Species* of it which Christ used in the holy Supper whatsoever it was is *imitable*. From these premises I infer this conclusion; By the force therefore of this example, say I *Christians* of the next age unto our Saviour, were obliged to the same *posture in the same Species* which he used; And in the same manner were Christians of the second and third age, ever since, unto these present times.

times; And it must accordingly be acknowledged that the Church of Christ even at this time also is obliged to the practice of the *triclinary* or *leaning posture*, if indeed Christ did use it, or at least it must be shown, at what *time* and on what *account*, and by what *Author* and *Authority* the force of this obligation is made void.

XXII. By these things which have been spoken it is manifest that all the force of their *Argument* which with so much pompe is dressed and held forth by them, doth come to no more than this, that it cannot more rightely or more commodiously be propounded for their own purpose than under this *form*. The example of Christ and his Apostles doth so farre oblige, as we think it expedient that it shall oblige, but we think it expedient that it shall oblige to the not *bending of the knee* in the receiving of the Sacrament, & no further; therefore so farre only, and not a jot further is the extent of the obligation. I am ashamed I confesse to furre your ears with the repetition of these vanities, for it becomes not this place, nor my age, or manners to *provooke to laughter in so serious a Subject*. But what shall we do with these men? A bad cause indeed doth need such a Patronage, and it cannot but come to pass that oftentimes they are enforced to speak many vain and incongruous things, and (if throughly they be examined) very absurd ones, whosoever they are, who like unto those men, do suffer themselves to be governed by *affectation* rather than *truth*. I do speake from my heart and as indeed it is, although in their writings we do meet with many things not solidly argued, and sometimes not sincerely, yet I do not remember that I have any where observed meer trifles



trifles to be carried on with so much animosity and contention, or the swelling Hills to bring forth a more miserable and ridiculous production, than when the bare examples of good men in the holy Scriptures are so importunately urged; either to excuse those acts which by the law of God do seem to be prohibited, or to induce an obligation upon the Consciences of men for the observation of those things which do not appeare by any law of God to be commanded. But I return from whence I have digressed, if I have transgress'd at all, and proceed.

XXIII. The fourth argument is taken from the end, and proper use of examples; for we must duely confesse, that examples in themselves are of great use, both for the institution of our manners; and for the amendment of our lives; And certainly otherwise so many *precepts* had not been left us in the word of God, for whatsoever is there written is written for our instruction *ἡς ἡ διδασκαλία ἡμῶν*. *Rom 15 4.* And for our admonition, *ἵνα ἡμεῖς ὑποβιβάζωμεν ἡμῶν*. neither would the Apostles otherwise have so constantly inculcated them. *My brothers take the Prophets for an example of patience, you have heard of the patience of Job, Elias prayed, James 5. 19 11. 17.* Again, *Be you followers of me as I am of Christ, 1 Cor. 11. 1.* *What you have heard and seen in me do those things Philip. 4. 9.* *Observe those who so do, walk as you have us for an example, Phil. 3. 17.* And the like in many places. But the use and end of *examples* are not to be rules unto us for good living, but only as *helps* and as it were *spurs* to shake off our dulness, and to rouse our sloth when we are more heavy and dull in the performance of our duties than indeed we ought to be. For humane frail-

ty ( especially upon some great temptations, and violent suggestions of the Devil and the World ) is commonly attended with many murmurings and complaints against the security of the Law of God , and the difficulty of giving obedience to it, nay oftentimes it is heard to cry out that there are Lyons in our way, and that there are snares and stumbling blocks laid under our feet to cause us to trip and fall; that we must endure injuries, contumelies, and calumnies , the plundering of our goods , the sequestering of our Estates, the loss of our dear parents, and of those dearer pledges, our Wives, and Children, and that with the losse of our friends; that we must lose our Countrey, nay even life it self, and become a hatred even to those who most of all are obliged to love us. How unpleasing are these discourages ? How unsupportable is the burden of this oppression ? As often as these thoughts ; and the like, do invade our minds, so that we even begin to despond all hope , and even to abandon the care of all our duties, as of things impossible, which in vain we do endeavour to perform , our languishing spirits are revived and rayled by the seasonable authority of *examples*, and are by degrees encouraged and armed, to despise all *difficulties*, overcome all *temptations*, and to endure all *contumelies* whatsoever, when I say we seriously thus do consider that pious & godly men, and obnoxious to the same troubles and temptations with us, being assisted by the grace of God, ( which will not be wanting unto us if we wholly depend upon it, and faithfully adde our endeavours thereunto ) have performed and endured all those things which by the help of God are to be performed and to be endured by us, our spirits will

*Turbiter  
desperatur  
quicquid  
feri potest.  
Quint. 1.  
Init. 10.  
Cum quid  
difficile  
videtur,  
difficiliora  
alios obe-  
dientes re-  
cent amu-  
Terr. 1.*

H

begin ad uxorem

begin to return, and our breasts grow warm with a godly emulation, *the fire will burn within us as we are musing* and in the fulnesse of the heart these or the like expressions will break forth; *Behold Lord I am ready to perform what thou commandest, and to undergo what thou layest upon me.* The same cloud of witnesses, hat which way soever we look, doth every where surround us, will perswade us also, that all revenge & distemper of spirit being cast away, as also the importunity of sin (which as it doth closely embrace us, so if we use our best endeavours, by the grace of God, will with no great difficulty abandon us) we courageously constantly and patiently do run the race that is set before us.

XXIV. St. James the Apostle in his fifth Chapter doth exhort us to a fervency in prayer, after the example of *Elias*, who by the importunity of his prayer, did as it were at his pleasure, lock and unlock the Gates of Heaven; And that no man might conceive, that it was to be imputed rather to the sanctity, and the merits of *Elias*, than to the promise of God to the prayers of the faithfull by the Covenant of Grace: The Apostle in the very beginning of this narration doth take away all occasion of suspicion, *Elias* (saith he) was a man *the same passions with us* verse 17. *ὁμοιοπαθὴς ἡμῖν.* He was a man, not a God, or an Angell, nor made of better clay, but out of the same *masse* out of which all other men are fashioned; This here urged is the most proper & the most profitable use of *examples*, we ought therefore to bear in our minds that *examples* are not the *rule* it self, neither do they carry with them the *weight* or *estimation* of a *rule*; nay, if any doubt be made of the the uprightness or the pravity of the

act, they are themselves to be brought, and diligently to be examined by the Rule *ἡ ἀρχὴ τοῦ ἀγαθοῦ* faith St. James in his fifth Chapter and the tenth verse, where I know not well if that word *ὑποδείγμα* doth carry with it a special force of signification. Certainly, it seemeth unto me, to imply that the acts of the holy Prophets are not *παραδείγμα*, the principal copy and example which is to be observed by us, but as it were the *ὑποδείγμα*, or the second example, which is not of authority of it self, or for it self, but so far to be believed, and received, as it agreeth with the original.

From what hitherto hath been spoken it may be now made manifest, that it doth not suffice to prove the goodness of any humane act, that it is conformable to the example of some good and holy man; and therefore no mans Conscience can securely and safely acquiesce therein, unless the example it self be conformable to the rule.

XXV. Again, that we may now come to the other part of our proposition; The account is almost the same of another mans judgment, as of his example, and that almost for the same Causes, so that we need not to make many words to enlarge our selves upon this Subject, I will therefore run it over in as few as I can.

And in the first place, all men though glibly and learned are no less lyable unto errours, than they are to sins, nay peradventure much more, and therefore we ought to have a more acute investigation of the mind, to discover the difference betwixt Truth and Falshood, then betwixt Good and Evil; First by reason of that natural ignorance with which our minds are darkened, and vaild as with a cloud. -- Se-



condly by reason of our *education*, which fashione and formeth our minds, as yet but tender, and doth imprint certain notions on them which it is no easy task to expunge. Thirdly by reason of long *use* and *Custom*, which is as it were another nature. Fourthly, by reason of the depraved affections which do eclipse our judgments, and do hinder the right-use of them. From these and many other causes it is so obvious unto men to *erre*, to *fall*, and to be *deceived*, that it hath been long agoe a proverb, *Humanum est errare*, It is the property of a man to erre.

XXVI. Adde to this in the second place, that not we our selves do not alwayes sincerely judge of their *piety* and *wisdome*, whose *judgments* we do desire to follow, it being very customary with those men who permit themselves to be governed by the arbitration of other men to make choice of such Conductors whom they before are confident will lead them in that way in which before hand they had determined to go themselves. Thus doth Satan hold fast unwary men, being as it were inclosed in his circle. If you demand of them, why they suppose such a thing to be *true* and *right*, they answer, Because this, or that wise, and godly man hath so raught us. If you again shall demand of them, how they do know their Teacher to be a pious and a prudent man; they answer, or at least would so answer, if they would speak according to their hearts, because he thinketh as we do think.

*Et sapit & mecum facit & Jove judicat aequo.*  
*The man is wise and doth as I intend,*  
*And judgeth rightly having Jove his friend.*

Many

Many there are indeed who do measure the piety of other men, not according to the practice of the duties of a Christians life, and by the works of righteousness, Mercy, Charity, and Devotion, but by an affection to that faction to which they have bequeathed themselves, and by the hatred to another party to which they profess themselves to be Enemies. *καὶ τὰς ἐπιθυμίας τὰς ἰδίαις ἰαυτοῖς ἐπιστατεύουσιν διδασκάλοις* saith the Apostle, 2 Tim. 4. 3. They shall heap up unto themselves, Teachers according to their own desires. The Metaphor following is most proper, *Κυνθόμενοι ἑ ἀλλήλων*; when their ears do itch they seek those that will tickle them; and thus the same doth befall them which in the old proverb is expressed; *Mulise mutuo scabunt, One Mule doth scratch another.*

XXVII. Thirdly, the word of God doth expressly forbid us to subject our Consciences to the judgment of any other, or to usurp a Dominion over the Consciences of any one: *Ne vocemini Rabbi, unus est enim vester ὁ καθυψίστης Magister, Præceptor, Doctor, Unctor, Christus.* Be not ye called Rabbi for one is your Master who is Christ, the word in the original signifies as well School-master, Tutor, Leader, as Master. *And my brethren be you not many masters* saith St. James Chap. 3. verse 5. To this purpose is that of St Peter, in his first Book Chap 5. verse 2. *Feed you the Flock of God which is committed to you, ὡς τῷ ποι, as holding forth a light before them, that is, the Doctrine of the true faith, and the example of a godly life, but not ὡς κατακυριεύουσας ἢ κλήσαν, not as exercising a domination and an uncontrouled empire over the Clergy or the people of God, And again, 1 Cor. 7. 23. Empi*

*estis pretio, nolite fieri servi hominum* You are bought with a price, be you not made the servants of men; that is, do not submit your Consciences to be governed by the Authority of any man, according to his pleasure, and command.

XXVIII. From these things which are thus stated, and proved, to give you now some few Corollaries, and those in a few words, it followeth in the first place, that the insupportable pride and tyranny of the *Pope of Rome* ought most deservedly to be hated by every true Christian who by arrogating an *infallible judgment* to himself; and to his chair, doth by that name exercise an usurping power and domination over the Consciences of men, and pretendeth so much right thereunto, that if he should say *virtues* were *vices*, and *vices* *virtues*, all Christians are bound under the penalty of mortal sin, to submit to his judgment without the least doubt, or scruple. We are therefore with all thankfulness to acknowledge the great and Singular goodness and mercy of Almighty God, who for these many years hath freed us, and our fore-fathers, and the *Church of England* from so unconscionable a Tyranny, and hath again restored us to our *just liberties*.

XXIX. But we must all of us, and every one of us take heed, that being freed now from that *Tyranny*, we do not stoop our necks to a *new bondage*, least we be found not so much to have shaken off our yoke, as to have changed it.

Horat.  
2 Satyr.  
9.

— *Qua bellua ruptis*  
*Quum semel e Fugit reddat se prava catenis,*  
Like to the Beast who having broke his chain  
Fondly returns to have it on again.

It doth indeed concern us highly, if seriously we would provide for the peace of our own Consciences, or of the Church and Common-wealth, to take care least what heretofore was spoken of the Church of Corinth; *I am of Paul, I of Apollos, and I of Cephas* be not heard of us; *I am of Luther, I of Calvin, I of Arminius, and, I of Soci-nus*. No let God be true, and every man a Lyar; He is not worthy to be Christs Disciple, who is not the Disciple of Christ alone. The simplicity and sincerity of the Christian Faith, hath suffered a great prejudice since we have been divided into parties; neither is there any hope that Religion should be restored to her former vigour and purity, until the wounds made wider by our daily quarrels and dissentions, being anointed with the Oyl of Brotherly Love, as with a Balsome, shall begin to close again, and to grow intire into the same unity of Faith and Charity.

XXX. In the third place we are to take heed, lest being too indulgent to our depraved affections, we do suffer our selves to be so drawn aside into the admiration of some men, that we wholly depend upon their Authority, *ἰαυαὶ ὧστες ἀπὸ τοῦ ὀνόματος αὐτοῦ* Jude 16 *ἀπορίας χάριν*, In which words the Apostle with a finger pointeth at the very Fountain of all this evil; For this perverse admiration of Names hath no other Spring from whence it floweth, but from this desperate self-admiration, viz. whiles every man studyeth his own profit, is ambitious of Honour, and pursueth vain-glory, and esteemeth no otherwise of all other men, than according to the advantage he may receive from them; And his Judgement being corrupted with these sordid affections,



he is most ready to admire those persons whom he thinks will be most ready to advance his Profit, Honour, Glory, and his other inordinate desires. And the very same thing another of the Apostles, whom already I have cited, doth expressly intimate they did choose unto them Master, *ἡ δὲ ἑκαστος ἑαυτὸν*, according to their own desires.

2. Tim,  
4. 3.

XXXI. Nevertheſſe, that due Authority may be given to the *Catholick Church*, and to every *Learned and Godly Man*, notwithstanding thoſe things which have been here by me repreſented; You are in the firſt place to be admoniſhed, that in the Interpretation of the Scriptures, and in judging of Controverſies in reference to *Faith* and *Manners*, much Reverence and Authority is to be given to the Judgement, and the Practice of the *Unverſal Church*.

Secondly, That much alſo is to be imputed to the Authority and the Judgement of a *Learned Man*, for the ſatisfying of ordinary ſcruples that too often ariſe in the minds of men, as alſo for the directing of the Conſcience in *doubtful things* concerning which no *certainty* can otherwiſe be had; But of both theſe we ſhall expreſſe our ſelves, we hope, more commodiouſly hereafter.




THE

## FOURTH LECTURE,

In which it is both Discussed, and  
Stated, what is the *Adquate*  
*Rule of Conscience.*

JAMES. 4. 12.

*For there is but one Law-giver who can both Save,  
and Destroy.*

I.  Now small is the Benefit and Protection which redoundeth to every one, either in the respect of the Fruit of his Conscience to excuse those things which he hath done, or of the security of it with confidence to undertake those things which he is about to do, if they only do rely upon the *Intention* of a good *End*, or upon the Authority altogether of another Judgement or Example, I have abundantly declared in my two last Lectures, in which

which my purpose was, those stops being removed, to make the way more plain & ready to proceed unto those things which I had determined to speak, of the *obligation of Conscience*; which obligation being two fold, *Active*, by which it bringeth one obligation on another, and *Passive*, by which it is subjected to the obligation of another, the method and privilege of order doth require that we should begin with the *Passive*; For then we more securely can pronounce of the *thing measured*, when it is once manifest that the *measure* it self is just. Our business therefore now in hand, is to *inquire* what *that* is which properly doth *oblige Conscience*, or, (which is the same) what is the proper and *Adequate Rule of Conscience*, to which, to be upright, it ought to conform it self; which inquisition, that it may be the more certain, and profitable, some few things being premised by way of explication, I shall endeavour at the last by certain conclusions to give you an account of the thing it self.

II. In the first place therefore it is to be understood, that for the more exact performance of the offices of *Conscience* it is necessary to lay down some *Rules* to which it ought to be subjected; for wheresoever there is any *Virtue active* which of its own Nature is not determined unto one thing in its acting, but is in a *Potentia* to another, so that it may act either well, or evilly; whether this *Virtue* be a *Habite* of the first *Species* of Quality, or a natural *Potentia* of the second, it is necessary that there should be some *Law* or *Rule*, which may direct it in the acting; For as often as any thing doth offer it self to the Fancy to be done, whither represented by the exterior sense, or by some internal

suggestion of the mind, because the *Will* which is the next *principium* of acting is (as commonly it is spoken in the Schools) but *Potentia cæca*, a blind *Potentia*, and of it self cannot discern Good from Evil, so as to be a *Rule* unto it self, the *Inquisitive Reason* doth straight reflect on Conscience, and doth listen to her *Dictates*. Now it is the Office of Conscience presently to *Examine* the thing propounded; And the examination being made, to *Judge* whether it ought to be performed, or eschewed, whether to be admitted or omitted, and accordingly as she hath judged, so presently to transmit her Judgement to the *Will*, that is to propound it to the *Free-will*, the same thing either to be chosen, or disliked; To which Office, of *Examining*, *Judging*, and *Informing*, least it should rashly be performed, & lest the *Conscience* as blind as the *Will* it self should misguide it, it is necessary that there should be a certain *Rule* according to which it should be examined.

III. In the second place we are to know, that in *Rules* as well as in *Causes*, there is a kind of subordination; And as in *Causes* that are *ordinated* to one another, the latter, if compared with the former, carry with them the Relation and the Account of *Effects*; So in *Rules* and *Measures* ordinated to one another, every one of the posterior, in respect of the superior, doth seem to be *regulated*, or to be mensurated by it. Since therefore the *Rule* of the *Conscience* is two fold, one next or the *immediate*, and the other the *first*, and more *remote*; that *Rule* which is next, as it is a *Rule* in respect of the *Conscience*, which it doth direct, so it is also as a *Rule Regulated* in respect of the *first* *Rule*.



Rule by which it is it self to be directed.

IV. Seeing the *Rectitude* of every thing, whatsoever, doth consist in the conformity of it to its *Rule*; we are in the third place to understand that ( as I have said ) there is a two fold *Rule* of *Conscience*, to wit the *Rule* which is *nearest*, & the *Rule* which is *more remote*; So there is also a twofold *Rectitude* of *Conscience* correspondent to that two fold *Rule* of it; For the *Conscience* may be said to be *upright* either *absolutely* and *simply*, or *respectively*, and *secundum quid* as the Schoolmen do expresse it; In this last Acceptation, a *Conscience* may be said to be upright when it is conformable to its nearest, and immediate *Rule*, as he is said to have a true and certain knowledge of any *proper passion*, who from the Subject of it, can demonstrate it by its *next Cause*, although he can ascend no higher. But in the former acceptation, the *Conscience* may then be said to be *upright*, when it is not only conformable it self to its *next Rule*, but when that *Rule* is conformable also unto the *first Rule*; In the same sence he may be said to have attained to a perfect knowledge of any *thing*, who knoweth all the causes of it from the *first* to the *last*, so saith *Aristotle* lib. 1. phisica: *Tunc enim unam quamque rem scire dicimur, quum omnes ejus Causas, principia & elementa cognoscimus, usque ad prima.* We are then said to understand what any thing is, when we can give you an account of all its causes, principals, even to the first Elements thereof. Therefore as the certainty of Science, though immediately arising from the knowledge of the *next Cause* doth not arrive to its ultimate perfection but by the knowledge of the *first cause*, so the *Rectitude* of

*Conscience* though immediately it reflecteth upon a conformity to its *next rule*, yet it ascendeth higher, and ultimately concludeth in that *Rule* which is the *first rule* of it, and the *supreme*.

II. In the fourth place it is to be understood that when we speak of the obligation of *Conscience*, that the said obligation doth not signifie any compulsion (for to speak properly, the *Conscience* can no more be compelled than the *free-Will*) but a *power* rather and authority (which she is bound to obey) to urge her to the performance of that which belongs unto her duty; In the very same manner altogether, as a King, who hath the *Legislative power*, by enacting lawes, doth oblige his subjects to the observation of them. As therefore in the external Courts, Subjects *properly* and *formally* are obliged to obedience, not so much by the *Law* it self, as by the power of the *Law-giver*, (howsoever the *Law* it self is said to oblige, but when it is so spoken, it is to be understood *improperly*, and as it were *materially* and *terminatively* because the obligation is made by it, and to it, so the *Law* is said to judge, *John 7. 5. Doth our Law judge any one?* although the *Law* it self doth not judge, but the *Magistrate*, because the *Magistrate* ought to judge according to the *Law*) so in the internal Court, the *Rule* or the *Law* imposed on *Conscience* doth not properly oblige it, but the power and authority of the *Imposer*, yet so, as by the *Consequent truly* and not *unaptly* although not so *properly*, the *Rule* it self may be said to carry with it an *obliging Virtue*. When therefore it is demanded, what is that which obligeth *Conscience* to the performance of her duty? At the same time both these questions are propounded;

*First*

*First and principally*, who is the *Lord of Conscience*, who hath *right* and *power* to impose a *Rule* or *Law* upon it, to which it ought to conforme it self? And then *secondly* and *consequently* what is that *Rule of Conscience*, or that *Law* which is imposed on it by the Lord thereof, and to which by his dominion and Empire over it, it is bound to conform it self.

VI. In the fifth place it is to be understood, when any thing is attributed to another, it is attributed either *by it self*, or *not by it self*, that is to say, *by accident*; Those things therefore to which the power of obliging the Conscience is any ways to be attributed, do fall under a threefold consideration; For in the first place they either oblige the Conscience simply by themselves, that is, they do *directly* oblige *by themselves*, and by their *own power*, not only as the Term *by it self* is opposed to the Term *by accident*, but as it opposed also to this Term *by another*. Or in the second place they do *oblige by themselves respectively*, that is, as the Term *by it self* is opposed to the Term *by accident*, and not as it is opposed to the Term *per aliud*, that is by another; The meaning is they do not oblige by *their own proper power*, but by the vertue of another, having a power to oblige. Or thirdly they do oblige *by accident* only, and in neither of the considerations *by it self*. It is besides observable that in those things which do oblige the Conscience in the *second consideration* there is some difference to be made according to the different account of the cause from whence the obligation doth arise; For it is one thing when the obligation is forcibly imposed by the authority of another, and another thing when it is willingly contracted, and

## Of the Adequate Rule of Conscience.

III

and of its own accord,

By this that hath been spoken it is manifest, that there are four degrees of those things which do oblige the Conscience; For examples sake (to give you a short view of what hath been already spoken, and of what as yet remaineth to be spoken) you are to understand in the *first place*; that the express Commandment of God doth oblige properly by it self, and by its own force.

1.

In the second place, the Laws of men, and the mandates and orders of our Superiours, do oblige the Conscience, but by no power or authority, but by the vertue of the Commandment of God.

2.

Thirdly, Vows and promises being made of our own accord, when it was wholly in our own choice to do otherwise, do in their *proper fact*, and freedom of election oblige our Consciences to the performance of them.

3.

Fourthly and lastly, the Law of consideration of Scandal and offence doth *by accident* oblige the Conscience.

4.

VII. We are here to understand, that only that obligation which consisteth in the *first degree* is *absolute and universal*, the other three are *relative and particular*; I say it is *absolute* because it doth *directly* and *alwayes* oblige, and because it obligeth *all persons*; and the obligation of it is never to be cancell'd. The others may be said to be *relative* both because they do not bind of themselves, or by their own power, but by a *relation* to some precept, or institution of God, as also because they do not *always* or *every where* oblige, and in every case, but when those considerations do require which they do bear



a reference and respect unto. The *obligation therefore of the first degree* is predominant over any obligation whatsoever in the other three, insomuch that it is able to make them of no effect, but it is impossible for them to render it frustrate; Nay, if we take it universally, the *obligation* in any superiour degree, (the other being equall) is more valid than the obligation in any inferiour degrees whatsoever, and doth judge over them, either by *taking away* what was done and contrasted, as oftentimes, or at least by *hindring* what was to be done, as always. Therefore as to the *power of obligation*, the Laws of men must give place to the Laws of God, private contracts and promises to publick constitutions, and the Law or consideration of offence or *scandal* to them both.

VIII. These things being thus premised, that we may be happy in a certain *Rule* by which we may know how to live, I will according to my promise comprehend in some few conclusions those which are most necessary to be understood concerning the *Rule of Conscience* and the *passive obligation* of it.

The first conclusion is; *That God alone hath a most proper and direct command on the Consciences of all men*; So that none but God alone hath power to impose a Law upon the Conscience of any man, to which it ought to be subjected, as obliging *by it self*, I say *by it self*, for we are all bound in our Consciences to observe the *just Laws of men*, to keep our *vows* and *promises* made to God, or men, and to be careful that we become not a *scandal* or an *offence* unto others; But we are bound unto all these things upon no other rye but as they are reduceable to the will of God, commanding them as in its due place

place we shall give an account unto you of the particulars thereof.

IX. This Conclusion is proved first by the words of the Apostle already mentioned, *There is but one Law-giver, who can both save, and destroy.* In which words two arguments do prefer themselves to our observation; In the first place, they assert there is but one Legislator; not *one* picked out amongst many, not *one* above many, but *one exclusively*, that is to say, *one*, and but *one only*. The Apostle otherwise had made use of a very uneffectual argument, to prove what he had propounded; For he rebuketh those who unadvisedly did pass their judgments either on the persons, or the deeds of other men, as the invaders of their *Rights*. Who art thou (saith he) who Dost judge another? As if he should have said, dost thou know thy self, what thou art, and what thou dost? It doth not belong to thee to thrust thy sawcy Sickle into the harvest of another man, much less boldly to fling thy self into the Throne of Almighty God. If already thou art ignorant of it, then know, that it belongeth to him alone to judge of the Consciences of men, to whom alone it doth belong to impose Laws upon the Consciences of men, which none can do but God alone. *ἐγὼ οὐκ ὁμολογῶ*, There is but one Law-giver.

It is observable, that the Apostle doth ascribe unto God alone the power of saving and destroying, from whence we frame the second Argument; He only hath power over the Consciences of men either for *command* or *prohibition*, who hath power with unmerited Rewards to crown the well-doers, and with just punishments to torment the transgressors: but it is in the power of God alone, the *only Law-*

giver, to give *Rewards* and *Punishments* according to the quality of every conscience; Therefore he alone hath a right and privilege over the Consciences of men.

X. It is thus proved again in the second place; He who alone knoweth the internal motions of the Conscience, he only hath the power of prescribing a Law unto them ( for the Law doth neither determine or judge of things unknown ) But unto God alone the searcher of the heart, the internal motions of *hearts* and *Consciences* are discovered; Therefore *he alone* hath the power of imposing a *Law* upon the Consciences, which may oblige them. From hence it is that the Laws of men do only bind the external motions of the body to an external Conformity, from the knowledge and command whereof, all internal motions, and several hammers that strike upon the clocks of the *mind*, and *Conscience*, are altogether to be exempted; And upon this account it was, that not only holy men and endued with the knowledge of the true God, such as were the three Captive young men amongst the *Babylonians* in the third of *Daniel*, and the seven brethren of *Maccabeus*, but many wise men amongst the Heathens did deride the threatnings and torments of Tyrants, as exercising their violence not so much upon themselves, as upon the outsides only, and on the suburbs of them. But let us consider what our Saviour *Jesus Christ* did think himself of these things, and what Counsels he prescribed to his Disciples concerning them: *Fear not them*, saith he, *that kill the body, and after that have no more that they can do upon you, but fear him, who after he hath killed, hath power to cast into Hell, yea I say unto you fear him,*

*Luke*

*Luke 12. 3, 4.* As if he should have said, Tyrants by the permission of God have power upon the *Bodies*, but upon the *Souls* and *Consciences* of men they have no power, no right at all, the Laws can neither ordain nor afflict any punishment which doth belong to the inward man; God hath only the prerogative of the Soul and Body, and for the neglect of their duties can afflict punishments on both, and condemn the whole man to everlasting torment.

XI. In the third place it is proved by the condition, and natural estate of the Conscience it self, which (as before I have expressed) is so placed as it were in the middle betwixt God, & the Will of man, as that which is usually and truly spoken of *Kings* and *Emperours*, may as truly be verified of the Consciences of every man, *Solo Deo minores esse, nec aliquem in terris superiorem agnoscere*; They are lesse than God only, and on Earth do acknowledge no Superior. That speech of the Emperour *Maximilian* the first is very memorable, *Conscientiis dominari velle, est arcem celi invadere*, To exercise a domination over Consciences, is to invade the Tower of Heaven. He is a plunderer of the glory of God, and a nefarious invader of the power that is due unto him, whosoever he is that shall claim a right to the Consciences of men, or practice an usurpation over them. Let the *Bishops* of *Rome*, (and the *Canonists* and the *Jesuits* who do flatter and cringe unto him, & all others) take heed that they be not guilty of this so great a Sacrilege; I would also have those admonished who do so submit their Consciences to the power of any creature which ought only to be subjected to God himself, to be carefull, lest whiles they conferre the Honour of that service to the



creature which is due unto God alone, they make a God of the Creature, which at least is interpreted to be Idolatry. From this first Conclusion thus proved, there followeth this remarkable position, That the proper Rule of Conscience is that which God the supreme Law-giver hath prescribed to it, and besides that Rule there ought no other to be admitted.

XII. The second Conclusion followeth, which is, That the next and most immediate Rule of Conscience (although it be neither the *Adquate* or the *supreme Rule*) is that light with which the mind at that instant is endued. And this is the same light which some do call the *light of Reason*, others the *Law of the mind*, and which the Schoolmen following the Philosophers do call *right*, or *rectified Reason*. This is first proved by some places out of the word of God, as Luke 12. 57. *Wherefore even of your selves* *do you not judge that which is right?* They are the words of our Saviour; as if he should have said, You have the light within you infused into your minds from that true light which enlightneth every man comming into this world, by the help whereof (unless you will be wanting to your selves) you can distinguish what is *straight* from what is *crooked*, and what is *just* from that which is *unjust*. The Text Rom. 2. verse 14. and 15. is very remarkable, *Quum Gentes qua legem (scriptam scilicet) non habent, naturâ ea qua sunt legis faciunt*, Seeing the Gentiles who have not the Law (*viz.* the written Law) do by nature perform those things which are of the Law, to wit they practice the Acts of Justice, Prudence, Fortitude, and Temperance, and of all other Virtues, *These men having not the Law are a Law unto themselves, for they show the works of the*

the Law written in their hearts, their Consciences giving witness thereunto, and their thoughts either accusing or defending them. By which words it is manifest, that in the particular Acts of Testifying, accusing, and defending, and in whatsoever Acts that already are committed by any person, his Conscience doth passe its judgment on every one of them by the light of Reason which is infused and imprinted into his mind; And seeing the Rule is the same concerning Acts to come, as well as concerning Acts past, it followeth, that the Conscience as well in those Acts determined to be done, as in those which are already done, doth make use of the same light of examining, judging, and dictating, as the Rule & measure of those Acts. I here shall willingly take no notice of that Text in the fourth Psalm and sixth verse, which is commonly produced by the Latin Fathers especially of the latter times, and by the Schoolmen, for a proof of this Conclusion, the words are *Signatum est super nos lumen vultus tui domine*, Thy light O Lord is signed over us, because that interpretation of the words are grounded on a bad translation, & seemeth not to appertain to the mind and scope of the Prophet.

XIII. This is proved again by our common custom, and manner of speech, for we usually say, that the man who acteth according to the light of his mind, doth use a good Conscience, although peradventure he hath committed or omitted that which was not to be omitted or committed by him; and again, that he who hath not obeyed those dictates of his mind, but hath acted contrary to them, hath used a bad Conscience. St. Paul the Apostle, Acts 22. 1 doth professe, that *In all things he served God with a*

1 Tim. 1.

13.

Act. 26 9.

Gen. 20.

6.

good Conscience even unto that day, which words, if they are to be extended to the former part of his life before he was made a Christian, ( which interpretation hath been complacent to many, and seemeth probable unto me ) we may conclude by them, that although he was an open and a dangerous enemy to Christianity, and as he himself confesseth, a persecutor and a blasphemer, yet it may be said, that even then, in all good Conscience he served God, because in all that time he acted nothing but what his Conscience ( according to the measure of that light with which it was then endued ) did prescribe unto him ; For indeed he then thought ( as he himself doth openly and sincerely professe in his Apology before King Agrippa ) that ~~id est ignorans~~, he thought in himself, that he ought to do many things contrary to the name of Jesus of Nazareth ; But whatsoever may be determined of Paul and of his Conscience at that time, most certain it is, that God himself gave a testimony to Abimeleck, who ignorantly sent for the wife of Abraham, that he did it, *integritate cordis*, in the integrity of his heart, that is with a good Conscience, and for no other reason but for this only, by which he did excuse himself, for had he known her to have been the wife of another man, he would not have sent for her unto his house. The Conscience therefore ( by an ignorance of it self not much to be blamed, peradventure erroneous ) may be said to be good and right, God himself being Judge, ( not simply and absolutely, but as but so far, & *secundum quid*, as they speak it in the Schooles ) by reason of the conformity which it hath with the light of the mind thereof, as its next and immediate Rule. But that the Conscience may be said to be right

right *ἰσχυρῶς*, that is fully, and in every respect, there must another and a further Conformity be of necessity added unto it, which is, it must be conformable to its first and *supreme Rule*, which what it is, shall most diligently be now discussed.

XIV. This therefore shall be our third Conclusion: *The holy Scripture or the written word of God is not the Adequate Rule of Conscience.* Which in the first place is thus proved; Beyond the Adequate Rule of any thing whatsoever, it is not necessary that for the same thing there should be any other Rule to be added to it, for *Adequation* doth exclude the necessity of any Supplement: But it is necessary that there should be another Rule of Conscience besides the holy Scripture, for otherwise the Gentiles who have not the Scripture should have no Rule for their Conscience, which comes quite crosse to reason, experience, and the expresse testimony of the Apostle in the Text above mentioned. Most certain it is, that there is a Conscience in all men, and that it is under a Law, which is a rule to direct it; For as the Apostle maketh mention, and it is every where extant in History, and confirmed by daily experience, from whence do proceed those grievous accusations of Conscience, those whips, those pangs, and torments of the Soul, & those furies expressed by the Tragedians, but from the *violated Law of Conscience*? of which if there were no Law at all, those people that are most barbarous should be so much the more happy, as they are the more far remote from the voice, and sound of the Gospel, because that then no crime of sin could justly be imputed to them, *For where there is no Law, there is no*



The fourth Lecture.

transgression, *Rom. 4. 15.* Sin being nothing else but the transgression of the Law, *ἡ γὰρ ἀναστασις τῆς αἰτίας, 1 Joh. 3. 4.* That the power of Conscience is strong in both regards, to fear every thing when it is guilty, and to be in dread of nothing when it is innocent, is not only cryed up by the *Schools*, but by the *Theaters* of the *Heathens*, who notwithstanding knew nothing of *Moses*, or of *Christ*, nor of the Law or the Prophets, and never heard of the Gospel or the Apostles. The Scripture therefore is not the sole and Adequate Rule of Conscience.

XY. It is confirmed again in the second place from the proper end of the holy Scripture, which is *εὐαγγέλιον τῆς σωτηρίας, 2 Tim. 3. 15.* To make us wise to everlasting Salvation by faith in Jesus Christ. For when the light of natural reason could not raise us high enough to those things which do tend to a supernatural end, both because of our natural light too much obscured and eclipsed by the fall of *Adam*, and because we must have supernatural helps to arrive to supernatural ends, it pleased Almighty God in pity of our infirmities, in his own word to open his own will unto us, according to that measure which he himself thought good, insomuch that by this gracious and saving Counsel, not only those things by divine revelation may be made known unto us, which properly do concern our faith, and cannot be known by the light of nature, but that more perfectly and more savingly we may be instructed in those things also which by nature are known unto us, that so those works which nature enjoyneth to be performed, taking their rise from a nobler principle, which is, the love of God, and ordained to more noble ends, to wit the Glory of God, and the salva-

salvation of our souls, may from *moral* become *spiritual*, and be grateful, and acceptable to God by Christ. The Scripture therefore, as supernaturally it is to be believed, is the only and *Adæquate Rule* of our faith, and according to our actions and performances ( so far as they are spiritual, and pertain to a spiritual end ) it is to be the only and *Adæquate Rule of our Manners*, and by consequent the principal, and ( as I may so speak it ) the Architectonical Rule of all our actions. But seeing it doth belong to Conscience to look back on things that are done, not only upon this account as they are spiritual, that is to say whether they are done out of *Charity*, and directed to a *supernatural end*, but as they are *moral*, that is, whether they be *good or evil*, *lawfull or unlawful*, *free or necessary*, that a right judgment may be passed on these things, we are not only to seek unto the *holy Scriptures*, but to make our seasonable addressees unto other helps.

XVI. In the third place this is proved again, by the *Form*, the *Character*, and the *Temperature* of the Scripture, which seeing it containeth in it very many precepts, but not all of one kind, some of them pertayning to *Manners*, some to *Rites*, and some indifferently common unto all, and some peculiar only to some Nation, and some again to some one *order or person*; Some of them induring only for a *time*, and others of a *perpetual obligation*, some by way of Counsel, of things expedient according as the exigence of the affairs requireth, and some again in the way of *mandate or command*, of things simply or absolutely necessary in themselves, if there were not some other rule, besides the Scriptures, for the discerning of *moral* from *ritual* precepts

precepts, and of things temporary from perpetual and of things peculiar from common, the Conscience would oftentimes labour in a Labyrinth of doubts, and know not which way to turn, especially when precepts of diverse kinds being delivered as it were in one & the same breath, in the same Phrase, and in continued connexion of words, do immediately follow and tread on the heels of one another. For examples sake, *Levit. 19. 18.* An example is there given to love thy neighbour as thy self; And in the verse immediately following there is a command, that two Beasts of a several kind might not be suffered to mingle in generation with one another, and that one Field be not sown with diverse sorts of seeds, nor any garment made of Linnen thread interwoven with Woollen. The first command herein is moral and universal, the other but Ceremonial and judicial, and peculiar only to the Nation of the Jews; But when these things are read in the Churches, it cannot by the Text appear what so great a difference there is betwixt them; And in the 30th. verse of the same Chapter, the Sanctification of the Sabbath, & the reverence of the Sanctuary are equally commanded, and in a continued course of words, and even in the very same solemn sanction of the Law given, *Ego Jehovah, I the Jehovah*: yet I doubt not but that most men are of opinion, that in one of the Precepts the Consciences of men are at this day obliged to the performance of it, and that in the other they are not. Now what the reason is that their opinion is such, the precepts in the Text being all alike, and no distinction, nor the least appearance of so great a difference, there can certainly no other reason be given but that it proceedeth from

from the judgment of *reason* and *prudence*, which being excluded, *obligatory precepts* cannot so be known from those which are not obligatory, but that the Conscience will be oftentimes in a suspense, and not able to know or judge what is commanded to be done, or what to be left undone.

XVII. It is proved in the fourth place by an argument drawn from the inconveniences which do arise from the contrary opinion, that is, from the most grievous calamities which have a long time afflicted the church of Christ by reason of the misunderstanding of the *perfection of the holy Scriptures*, from whence a most dangerous error hath possessed some men of great estimation, that they have declared, that nothing can be lawfully done, or commanded, which is not authorized by God in the Scripture, or at least there approved by some laudable example. This foundation being once laid, not a few men of a hot spirit being transported (*to judge charitably of them*) with a zeale to God, but not according to knowledge, did begin to raise unnecessary strifes and disputation concerning the Ceremonies of the Church, they did declare that all Ceremonies not expressly mentioned in the word of God, were to be thrust out, and for ever to be banished from the Church of Christ; that Laws ordained by men concerning things Indifferent were to be cancelled, that all the Churches throughout *Europe* were to be reformed, & all things to be reduced to the *Evangelical purity and Simplicity*. The unruly rage of these men did here for a while *make a stand*, but it did not stand here long, but as commonly it commeth to passe *ἐν ᾧ νόμῳ τῇ ἁλλὰ συμβάν*, one absurdity being granted, a thousand will insue, their boldnesse derived from his fountain did flow



at last into an open rage, and brake forth into an Anabaptistical fury; And although the *growing mischief* hath gon so far that it can scarce rise higher, yet every day it swells, and more and more doth enlarge it self by bringing into the world new monsters of opinions, that were we not assured by the word of God, that the foundation of God doth continue firm, and that the Gates of Hell shall never be able to prevail altogether against the Church, it were much to be feared, lest the *universal Church* of Christ overwhelmed with a Deluge of Atheism, should utterly be swallowed up by it throughout the world.

XVIII. And let no man think that in vain Rhetorick I do complain of this, with more enuy, than truth; for I am most confident, that he whosoever he is that is strongly prepossessed and infected with this error, shall never be able in his daily controversies any ways to satisfie the importunate arguments of the *Anabaptists*, *Socinians*, and other *Sectaries*, whose names I am ashamed to mention, For to passe by the established form of *Ecclesiastical Government* which now adays our *Political Divines* would either referr to the Civil Magistrate, or quite take them away, upon no other account but this only, that they think it is no where expressed in the word of God, they must take away with it the observation of the Lords day, the Ordination of Ministers of the Gospel, the Baptism of Infants, the Sprinkling of water in Baptism for the dipping of the whole body, the Sacramental reverence, and many other things, with all Ecclesiastical Rites, and Laws, or else having reformed their judgments, they must confesse they may all of them be

be retained without, or sin or scandal.

XIX. But this, you will say, is to derogate from the perfection of the Scriptures ( which all the Divines of the reformed Churches do willingly acknowledge ) and to open a door to the Traditions of the Church of *Rome*, and to take away all the force from the arguments drawn *negatively* from the *Scriptures*, which the antient *Fathers* of the Church, and the most learned of the *Divines* of these times do very frequently make use of. I make answer, that the *Church of Rome* doth derogate from the perfection of the Scripture in this consideration, that in the matters of Faith, and things necessary to salvation, they do thrust in their *unwritten Traditions* to be received with the *same reverence* as the written word of God, as if it were not enough for the sons of God, to be wise unto salvation, by having the *new Testament* conferred on them, which is the Inheritance left them by their Father, but they must also have the vain books inserted of humane Traditions; But as for those who do dispute *negatively from the Scriptures*, concerning things which are necessary to salvation, either to be believed or practised, let them make use of this argument, as indeed they ought to do. But there is no question here of the rule of Faith, but of the rule of Conscience, and not of the chief rule of it, but of the *Adequate*, and not what is necessary for a Christian to believe or practice to attain unto the salvation of the Soul, but what is lawful for a pious and prudent man to do lawfully, or to leave undone, at *such a time*, or in *such a place*. The sum of all is, that the *holy Scripture* is the *Adequate Rule of Faith*, and of things *supernaturally to be*

be believed, as also of all *moral actions* so far as they are spiritual, and ordained to a *supernatural end*, and it is also the the *Law of Conscience*, & the *Chief and supreme Rule* for the putting of *moral things* in practice; so that where the Scripture determineth of any thing universally, either by the way of *precept* or *prohibition*, it is not lawfull for any other *Law* whatsoever to stand in opposition to it: but it is not so to be understood to be the only *Law of Conscience*, that what is not *commanded* there, to be therefore presently unlawfull: And thus much of the third Conclusion.

XX. The fourth followeth; *The proper and adequate Rule of Conscience is the will of God, in what way soever it is revealed unto Men.* Some call this the *Law of God*, others the *eternal Law*, the words differing in the *sound*, but agreeing in the *sence*. Every part of this Conclusion is to be weighed by it self; In the first place I do say, it is the *will of God*, which by the Schoolmen ( though by some of them not rightly expounded, and by others of them not rightly applyed ) is distinguished into *Voluntatem beneplaciti*, and *Voluntatem signi*, the *will of the good pleasure*, and the *will of the sign*. The first called the *will of the good pleasure of God*, is that, which God from all eternity did with himself resolve what he himself will do; the other which is called the *will of the sign* is that by which God hath given us a *Law*, by signifying what he would have us to do. The first is called the *will of God properly*, and *univocally*, the other *improperly*, and *analogically*. The *will of the good pleasure*, ( if it be lawfull to speak of the majesty of God after the manner of men ) is in some respect a *Law* unto God

God himself, whereby he *acteth*, for he always acteth that which is *complacent* unto him; but it is not given to us by God to be a Law, or to be a rule unto our Consciences, or at the least for the putting of any thing into action; In some respect indeed it may be said to pertain unto the Consciences, in regard of *sufferings*; but this is a *posteriori*, & from an after observation, & in this sense, that in Conscience we are obliged with patience to endure all things whatsoever shall befall us, after that by the event it is manifest to us that God would have it so; For rectified reason doth dictate this unto us, that we ought not to be displeased at the method of the Divine Providence, who can will nothing but that which is most righteous; It remaineth therefore, that the *will* be the rule of our Consciences, *Optimum* which is called, *The will of the sign*; For when *est Deum* God by *prohibiting* and by *commanding* hath signified what we ought to do, and what we ought not to do, it is our duties absolutely to conform our wills *quo Autore omnina proveniunt sine murmuratione committitur* unto his *will*. Many things amongst the School-men are with unprofitable acutenesse disputed on this Subject, *viz. Whether and how far the will of the reasonable creature in nothing willed is bound to conform it self to the will of the Creator?* When the whole matter (as much as belongs to our business, and the use of humane life) may briefly in one word be dispatched, which is, *That we are always bound to will that which God willeth, that we should will*; Thus when God commanded Abraham to offer up his Son Isaac, Although God in the will of his good pleasure would not have had that done which at the same time he commanded to be done, as by and by shall appear by the event, yet Abraham

was



was bound to will the very same thing, because God by *commanding* it, did signifie that *it was his will that Abraham should have a will unto it.*

XXI. I say secondly; *the will of God revealed unto Men*, because this *revealed will* is the formal Cause and Reason of the obligation; For the will of God doth not oblige those unto whom it is not revealed; And hence it is, that the Gentiles to whom the Gospel is not preached, are not bound to believe it, or to have any faith in Christ; for there is no man that is bound to that which is impossible: And it is impossible for that man to whom the Gospel hath been never preached, and who never hath heard any thing of Christ, to believe either in Christ, or in the Gospel, seeing that the light of Reason cannot ascend so high, according to that of the Apostle, Rom. 10. 15. *How shall they believe in him of whom they have not heard? and how shall they hear without a Preacher?* And the same Apostle thinks it not meet, that others should be judged by the Law, but those only who have *sinned in the Law*, Rom. 11. 12. Neither doth this suffice to bring an obligation upon the Conscience, that the *will of God is revealed to him*, unlesse it be revealed to him as the will of God, in a peculiar reference to himself. Insomuch that if any of the Gentiles who were *Aliens* should casually have met with the Books of *Moses*; and by reading of them should observe the Commandements which are thete given to the people of *Israel*, he had not presently been obliged to the performance of them, because they did not pertain unto him, but were only peculiar to the *Israelites*; and it is known, that the Law doth not oblige all men unto whom it is known

known, but all those only to whom it is given.

XXII. In the third place I say, *the will of God in what way soever it be revealed*; for the will of God receiveth its authority from it self, and not from the manner of revealing it. So that the Church of Rome, in their *controversie concerning Traditions*, need not to take so much pains to prove That the word of God unwritten is of equal authority with the word of God that is written, for this we willingly do grant unto them; We only saine would understand how we may satisfie our selves that the *Tradition* unwritten, may appear to be the *word of God*, as undoubtedly as the *word* which is written. The will of God therefore in what manner soever it be revealed, is the Rule of the Conscience, provided, it be so revealed, that it either actually be made known, or may be so made known unto the mind, if culpable negligence doth not hinder; And it doth oblige the Conscience to acknowledge it, and to propound it unto our own will, as the will of God, to which it is bound to conform it self, and not only so, but to command the *executive potentiaes* to bestirre themselves for the fulfilling of this will of God. Remarkable is that of *Damasce*, *Τὸ δὲ γὰρ δὲν ἐπεὶ ὁ Θεὸς βούλεται*, what God willerh, must of necessity be good; for *his will is the measure of goodnesse*; but the Law of God is *ἡ τὸ τοῦ Θεοῦ δόξα ἐν ᾧ*, that commandment by which God doth teach us that good will of his; he proceeds *ἐπιβάνων ὁ τὸ Θεὸν νόμος*, the Law of God comming to our mind doth attract it to it, *καὶ ῥύσκει τὴν ἡμετέραν συνείδησιν*, it doth incite, instimulate, and as it were spurs it doth urge our Consciences to the performance of their duties, by representing

and inculcating into our *wills* the *will of God*. And this is that most proper and exact *obligation of Conscience* which we before have spoken of.

XXIII. The force and effect of this obligation is variously expressed by *St. Paul*; Sometimes he *confesseth himself a Debtor to the Grecians and Barbarians*, *Rom. 1. 14*. As if he should say, seeing I know by the *will of God* that I am set apart to preach the Gospel to the *Gentiles*, without difference, whether they are *Grecians*, or *Barbarians*, I acknowledge that in this respect I am a Debtor to them; And in the *2 Cor. 2. 14*. he saith, that he is tyed, and bound, as men are bound with bonds, to the performance of this duty. And in the first of the *Corinthians*, the ninth Chapter, and the sixteenth verse, *ἀνδρῶν μοι χρεὴς εἰμι*, The preaching of the Gospel is intrusted to me, so that I have not the leasure to be idle, for a great necessity doth presse me, and wo unto me if I should neglect it. The like necessity so be imposed upon them, and not to be shaken off, was openly and before *St. Pauls* time acknowledged by two of the greatest of the Apostles, and for a long time *individual Companions*, *S. Peter*, and *St. John*, *Acts 4. 20*. *ὁ δυνάμεθα μὴ λαλεῖν*, For we cannot but speak, God hath commanded us to speak with authority, and you command us to hold our peace; Whether it be better to obey him, or to obey you, Do you judge? We are free, and can be so from your command, for you have no power upon our Consciences; but the command of God doth hold us fast, and hath such a coercive power over us, that unlesse we wil perish, we cannot be free, nor do any thing but that only which he commandeth.

XXIV. Moreover, when it is asserted, that the  
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next and immediate Rule of the Conscience is the light of the mind, and the primary and the supreme Rule, is the written word of God, and the proper and the Adæquate Rule of it, the will of God by manner whatsoever revealed, or which is to the same sense, The Law imposed by God on the reasonable Creature, That these things may more fully be understood, we are to know, that the light of the mind is threefold; as God in three ways hath manifested his will to the reasonable Creature. There is the light innate, the light inferred, and the light acquired; or the light of nature, the light of Scripture, and the light of Doctrine. The first light, which I do call the light Innate, doth proceed from the Law of nature; For in the first creation of the World, as God endued brute and inanimate Creatures with a natural instinct, by which they are inclined unto those things which are congruous to their natures, and the conservatives of it, which is as a Law unto them, as it is so expressed by David, *Psal.* 148. 6. *Thou hast given them a Law which they may not transgresse*, So a certain natural Law is given unto man, and proportionated to his nature, as he is a reasonable Creature, that is, more sublime and noble, and if I may so speak it more Divine than what is given to other Creatures of this inferior Order; And this Law doth incite him to the performance of those things which are agreeable to his nature, as he is a man, that is to say, a living Creature indued with reason, or to live according to reason. Now this Law is a natural impression, and as it were a figure of that eternal Law which is in the mind of God, and it is a part of that Divine Image after which man at the first was said to be



made, *Gen. 1.* by which knowing of a certainty that there are some things in *our reasonable nature* that are congruous to the will of God the Creator, and other things which are not so, we do conclude, that the one is *good* and ought to be performed by us, and the other *evil* & altogether to be abominated. The *light* proceeding from this *law* is extremely obscured by that grievous ruine which folowed the fall of *Adam*, and from hence arise those thick clouds of *Ignorance* and *Error* in which all his posterity whilst we live in this *World*, are invellped. But the *providence* of God hath so most wisely ordered it, that in the common wrack it hath come off more unhurt than many other of the *Faculties*: for it hath pleased God that certain propositions,

*Qua animis imprimitur inchoate intelligentie*  
*Cic. 1 de leg.*  
*Hac tam exiguua lucis scintillula remansit.*  
*Calvin. Instit. 1o. Sect. 5.*

*νοῦς ἐνοίας* and *προληψὶς φυσικὰς*, and *ῥασιμότης* *ἡμῶν ἐννοίας*, *us* most acutely *ἡμῶν ἐννοίας* *spark* of the *Divine Fire* which in the great conflagration was preserved in the ashes of it, should still remain, that so in our breasts and most inward parts, he might have the Preachers of his will. These *νοῦς ἐνοίας*, These common Notions, are that *Law of God*, which the Apostle *Rom. 2.* doth say is written in the *Hearts of men*, in the very same manner, as the *Lawes of Cities* or of the *Prince* are accustomed to be inscribed in *Tables of Brasse*. For they have the same authority and estimation of a *Law* or of a *Rule* imposed by God upon us, as the *Will of the Law-giver* signified in a publick instrument, and exposed to the peoples view, is adjudged to be a *Law*.

XXV. This natural Law doth consist of diverse practical principles which notwithstanding are real

ced to one first and universal Law which doth contain the other, This *universal Law*, though but short, is *bipartite*, of two parts, viz. *Good is to be done, Evil is to be avoyded*. In the same manner all the Commandements in the Decalogue are reduced to one *Universal Law*, to wit, the *love of God*, and the *love of our neighbour*. To this *Universal Law* conserved in the *Synteresis* there are other *particular Laws* subordinated, which are derived from it, as *Conclusions* are from *Premises*; some whereof are of the *first Dictate of Nature*, and next of all adjoyning to that *principal Law*; others stand farther off, and have only a *Secondary relation*, and by the virtue of those which are more neere. Those which are of the *first dictate of Nature*, as soon as they are presented to our minds and cogitations, they presently command our belief, and by reason of the undeniable evidence of them, they do inforce us to assent unto them; for it is not lawful to doubt of the truth of them, nor is it possible for any one who understands the sence of the words, to erre concerning them; for no sooner it is propounded that *God is to be worshiped, and no man to be injured*, but the mind presently is at rest, and without delay assenteth to it; but in the latter, by reason of the difference which may arise from *Circumstances*, it most often comes to passe, that we both doubt, and erre, and the more remote we are from those *first Principles*, the more prone we are to run into error. For the *first and universal Principles*, are so much the more certain than the *posterior and the particular*, as they are the lesse *circumstanced*. For by *Circumstances*, and by *descending*, as commonly it is spo-

Cicer. lib.  
1. Offic.

ken we oftentimes do fall into errors, The precepts of the first kind are, *that Parents are to be honoured, Children nursed, the life of our neighbours to be preserved, the pledge to be restored*; which as they are commonly and for the most part to be observed, yet they are not absolutely and simply if the thing and place (which might so come to passe) should otherwise require it. For the Commands of the Parents are to be despised in comparison of the Love of God, and there may be a just cause of disclayming unreclaymed Children, and taking away the life of our neighbour, neither is the sword to be restored to the mad man. Near unto this distinction is that distribution of Offices, in Cicero, which he hath taken from the Stoicks, for with them, *a right and perfect Duty* which the Greeks call *καλοθεσμία* is one thing, and a *mean* or a *common duty* which the Greeks call *καθήκον* is another. Wherefore that the Conscience may judge more rightly and more certainly, what is the *will of God* so far as is pertaining to *this part* of the Rule of it, it will be requisite to direct it to the *most universal precepts* that possibly may be had, and to those first Axioms which are of themselves to be believed. But because I must make haste to other observations, I shall here put a period to my discourse concerning this *Law of Nature*, and present you with that of Cicero, in his lost books *de Republica*, which by Lactantius, 6. Instit. 8. is expressly thus recorded. *Est quidem verò lex recta ratio, natura congruens, diffusa in omnes, constans, sempiterna, quæ vocet ad officium iubendo, vetando à fraude deterreat.* — *Huic legi nec obrogari fas est, nec derogari ex hac aliquid licet, ne quæ tota abrogari præst; Nec ve-*  
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## Of the Adequate Rule of Conscience.

22

*re aut per Senatum, aut per populum solvi hac lege possumus. Nec est querendus explanator, aut interpret ejus alius; Nec erit alia Lex Roma, alia Athenis; alia nunc, alia posthac: sed & omnes gentes, & omni tempore, una lex & sempiterna & immortalis continebit. Unusque erit communis quasi Magister & imperator omnium Deus ille Legis hujus inventor, disceptator, lator, cui qui non parebit, ipse se fugiet, ac naturam hominis aspernabitur; atque hoc ipso luce maximas pœnas, etiamsi cetera supplicia que putantur effugerit.* The Law is right Reason, agreeable to nature, diffused into all, constant, everlasting, which calleth unto duty by commanding, and by forbidding deterreth from deceit. ——— This Law is not to be contradicted, neither is it lawfull for any man to derogate from it; neither is it possible that it should be altogether abrogated. We cannot be discharged from it either by the Senate, or the People; It needs not an Expounder, or Interpreter; It will not bear one construction at Rome and another at Athens; it will not be one now, and another hereafter: but being the same Law, perpetual, and immortal, it includeth all Nations, and at all times; And there is as it were one common master, and sovereign Commander over all, the one God, the Inventor, Discussor, and Communicator, of this Law, whom whosoever shall not obey, he shall fly from himself, and be unworthy of the nature of man; and for this alone shall grievously be tormented, although he escapeth other punishments that are conceived. A remarkable place, and which so clearly unfoldeth the force and nature of this inbred light, that we need not to make any addition to it.

XXVI. The second light which is conveyed into the



### The fourth Lesson

mind ( as I have said ) doth come unto it from without, and proceedeth from *Divine Revelation*, to wit, from that light which God hath held forth unto us in the holy Scriptures, in which more fully he hath made known his will unto man; that there nothing might be wanting which is necessary for the institution of his manners, and the attainment of everlasting happinesse. And the rather, because the *inward natural light*, as already I have shewed, doth not suffice thereto. Now this light differs from the *natural light*, not only in its *original*, but in its *perfection*. First, because it manifesteth the will of God in those things to which the light of Nature cannot attain. Secondly, because it ordinateth the moral actions dictated by the light of Nature, to a higher end; Thirdly, because that whereas the Law ingraven in the mind is instituted by God, as he is the Author of Nature; This Law revealed in the word is instituted by him, as he is the *Author of Grace and Salvation*. Therefore Where the *light of nature* is either *weak*, or *defective*, as it is *defective* in those things which are beyond its sphere, of which nature are the *mysteries of Faith*, and weak in those things which are a little more remote from those *precepts* which are *most universal*, in those cases I say we must have recourse to the *light of the word*, as to a light shining in a dark place, 2 *Pet.* 1. 19, *To the Law and the Testimony*: if they speak not according to this word, it is because there is no light in them. *Isa.* 8. 20. *Thy word is a Lantern unto my feet, and a light unto my path*, *Pf.* 119. 105. If I should enlarge my self upon the perfection and the profit of this Law, there would be no end of my discourse. See on this Subject, the nineteenth *Psalme*, where there

there you shall find much in few words ; and concisely ; And the hundred and nineteenth *Psalm* , where you shall find the same things in more words, and more largely represented.

XXVII. Moreover, there are two parts of this *Law* , the *Law* properly so called, and the *Gospel* . I do not here understand the *Law* and the *Gospel* in that sence, as for the most part it is taken by Divines, for the two Covenants made by God with man ; The covenant of *Works* , and the covenant of *Grace* : but in the more common acceptation, for the Books of the old and new Testament, which the *Fathers* not unaptly for this purpose have called the *old Law* , and the *new Law* ; but both these *Laws* , all the whole *Law* of *Moses* , and the new *Law* of *Christ* , for that part of it which containeth moral institutions, is cryed down by the *Antinomians* , the *Anabaptists* , and *Enthusiasts* , and other prodigious names of a generation of people of our age, as altogether unprofitable, and unworthy of the care, and study of a Christian , after he is come to be of age in *Christ* , and annoynted with the unction of the Spirit ; They will admit of no *Law* but only the *Law* of Faith, and the Dictates of the Spirit. I am not at leasure now to confute them, neither indeed is it very needfull, seeing that the Apostle *James* hath long since so opposed the Monsters of such errours , as if by some Propheick Spirit , he had on purpose undertaken the Confutation of them.

XXVIII. The old *Law* , which is called the *Mosaical Law* , is distinguished into three parts, the *Moral* , the *Ceremonial* , and the *Judicial* ; Of every one whereof, many things are diversely disputed by  
many

many men; I shall at this time passe them by; and briefly propound unto you what I conceive of the obligation of them, reserving in the mean time to every man his own Judgment. I say therefore in the first place, That no Law at all delivered by *Moses*, doth formally, directly, and by its self oblige the Conscience of Christians, as it is the Law delivered by *Moses*; my reason is, that every Mosaical Law, as Mosaical, was positive, and a Law positive doth oblige none but those only on whom it is imposed. Seeing therefore that the Law delivered by *Moses*, was only imposed on the peculiar Nation of the *Hebrems*, as may easily appear to any man that will observe but the beginning of it, *Hear Israel*, and the whole Addresse of the following discourse; it cannot so appertain unto those who are out of the number of that Nation, as by that account to oblige them because delivered by *Moses*. But if any part of that Law doth now oblige Christians (as certainly the Commandements of the Decalogue are obliging) it cometh to passe by Accident, and *ratione materiae*, by reason of the matter, not because *Moses* so commanded, but because that which hath been commanded by him is either agreeable to the Law of Nature, or confirmed in the new Law by Christ himself.

XXIX. I say in the second place, That the Ceremonial Law of *Moses* doth oblige the *Jewes* in their Consciences, before the Gospel of *Jesus Christ* was preached to them, but not other men, unlesse those only who were *Profelytes* of the *Jewish Religion*, and worship, who consisting of two kinds, *Profelyta Porta*, and *Profelyta Justitie*, so called

called by the Jews, that is to say, *Profelytes of the Gate*, and *Profelytes of Righteousness*, were obliged to the observation of the *Ritual precepts*; Those of the former kind were obliged to the fewer, but those of the latter, as the Jews themselves, were obliged to the observation of them all. Now from the time of the *Death* and *Resurrection* of Christ, since the Gospel began first to be preached to the Jews, and afterwards to the Gentiles, until the eversion of the Temple of *Jerusalem*, and the Jewish Common-wealth, this Law indeed was dead (if we love to speak after *St. Augustine*) but not deadly, which is to say, that it had lost the force of obliging, but the Rites, and Ceremonies delivered by *Moses* were not altogether unlawful, but left as indifferent to the observation of every man, so that it was lawful for any one (according to the emergency of the occasion) to use the freedom of his own will, and to use them, or not to use them, a due respect being always had to *Prudence*, and *Charity*. And that this was the sense of *St. Paul*, is so manifest, both by his constant *Doctrine* and his *Practice*, that there needeth no proof of it. And after the eversion of the Temple it was spoken by diverse men, that this part of the Law of *Moses* was not only dead, but *mortiferous*; which unlesse it be rightly applyed, and with a prepared *Distinction*, I am afraid will be found to be more wittily than solidly expressed; For all Ceremonies are not alike to be esteemed; But those which concern *Order*, and *Decency*, are wisely to be severed from those which were the Figures of Christ to come: for those figurative Ceremonies, which were instituted by God, to be

Types



Types of *Christ our Redeemer*, to come in the Flesh, such as were *Circumcision*, *sacrifices*, and many such like, became certainly of no use after Christ did really fulfill all things which were typically figured in those Ceremonies, and sufficiently declared to the whole world by the Preachers of his Gospel; that all those things were rightly fulfilled, they are therefore to be taken away, not only as dead, and rotten, but are most carefully to be shunned by every true Christian, as deadly and pestiferous; and above all things it must most precisely be taken heed unto, that they be not observed with any opinion of necessity, according to that, *Gal. 5. 2. I Paul say unto you, if you be circumcised, Christ will profit you nothing.* But those Ceremonies which pertain only to the outward Decency, in the solemnity of the Divine-worship, although peradventure it were better not to use them where a just cause of offence may be given, yet they are not simply to be condemned as unlawfull, upon this bare account, that they are a part of the Mosaical pedagogy.

XXX. I say in the third place, That although many do distinguish betwixt those *Political Laws of Moses* which were of a *common right*, of which they assign some Notes and Criticisms, and betwixt those which were of a *particular right*, it is not necessary that any such distinction should be made; Nay we may roundly affirm, that those Laws of *Moses* which are called *Political*, or *Judicial*, do none of them oblige Christian Magistrates to a strict observation of them, but it is lawfull for them, according to their own discretion, and as they shall find it expedient for the safety and profit of the  
Common-

- Common-wealth, either to revive them into power, or to make them of no effect.

XXXI, I affirm in the fourth place, That the *moral Law* delivered by *Moses*, that is to say, the *precepts of the Decalogue* or the ten Commandments, do oblige all Christians as well as Jews to the observation of them; All Protestants that I do know of, do with one mouth acknowledge this truth; *Bellarmino* therefore doth us the greater injury, who seigneth, *that we do make Christian liberty to consist in this*, not to be bound in Conscience to be subjected to any Law, and that *Moses with his Decalogue doth not pertain unto us*. Let him see how he can clear himself of *this scandal*, and vindicate those of his part from this crime, if we are in it. For the Controversie amongst his Schoolmen is agitated, Whether Christians are bound to the *precepts of the Decalogue*, only as they are the *Declaratives* of the Law of Nature, or as they were also delivered by God to *Moses*, and by Gods Commandment given by *Moses* to the people of God, and transmitted into the holy Books; Some there are of them that do deny the one, & others that do affirm both. And in our Churches the same diversity of opinions is to be found, if it be not rather a diversity in words, than in opinions. For seeing they amongst themselves, and we do agree with them in this, which is the main of all, that the Moral Law which is delivered by *Moses*, and is contained in the precepts of the *Decalogue*, hath the power to oblige the Consciences of Christians, it will peradventure, be not worth our labour, from whence it doth obtain that power to oblige; In my judgement they speak more unto the purpose, who say, that

that this Law of *Moses* doth not oblige Christians formally, and as it is delivered by *Moses*, but onely by reason of the matter, as it is the Declarative of the Law of Nature; and it receiveth therefore all its force of obliging, not from *Moses* bringing or delivering it, but from the Dictates of the Law of Nature, which God in the first Creation did inspire into our minds, and after the Fall would have it to remain in them, as the Remembrancer of *his will*. And this may suffice to be spoken of the old Law, or the Law of *Moses*.

XXXII. The new Law, or the Law of Christ, that is to say, the Gospel, doth contain these three things. 1. *Mysteries of Faith* to be believed, in which chapter I comprehend the promises of God by Grace. 2. *Sacred Institutions* Ceremonial, and Ecclesiastick. And 3. The Moral Precepts, of which I speak, and universally of all of them; *That the Gospel obligeth none but those only who are called*, those only to whom it is preached. For where there is no Law, there can be no transgression, for moraly, especially in *Supernaturals*, it is the same thing, *Non esse, et non apparere*, not to be, and not to appear, or not to be so sufficiently propounded, as it may be known. The words of our Saviour are expressly to this sence, *Ioh. 15. 22. If I had not come, and spoken to them, they had not had sin*, that is, they had not been guilty of despising the Gospel; But it obligeth all men to whom it is preached to an obedience as well of Faith as of Life, so that we are all bound, to whom the Gospel is preached, both to believe in Christ as our Redeemer, and to obey him as our Law-giver; And whosoever shall fail in the performance of these

two things, shall suffer everlasting punishment for the neglect of his duty.

XXXIII. I say in the third place, That the *Christian Church* is obliged to the Sacred Institutions, that is, to the preaching of the word, the administration of the Sacraments, the Ordination of Ministers of the Gospel, and the exercise of the *Keyes* as well of *Knowledg* as of *Power*; it is bound, I say, in all those things which pertain to the essence of them, according to the institution of Christ, and the Apostles, so that it is not lawful for the Church, much lesse for any particular congregation, or person, either willingly to diminish, or to change any thing at all therein: But the external circumstances of the Sacred Institution are so free, that any particular Church may determine of them according to Time and Place, and to the custome of the People of God, and as it shall seem most expedient to *Edification*.

XXXIV. In the third place I affirm, That the *Moral Precepts of the New Testament* are the same, according to their substance, with the *Morals* of the Old Testament; and they are both of them to be reduced to the *Law of Nature*, which is contained in the ten Commandements; as *omnia Entia realia*, all real Beings are reduced to the ten Predicaments. But the Precepts of Christ in the new Law, as the holy Fathers of the Church do every where acknowledge, are in many things far more excellent than the Precepts of *Moses* in the old Law, not onely in that respect, that they are propounded more fully and clearly, but because they ascend also higher, and do advance the true Christian to a more eminent degree of perfection, and that with most effectual



effectual inducements on both sides, the past Example of Christ being propounded to him on the one side, and the inestimable reward to come in the Kingdom of Heaven on the other. And this most clearly may appear in those two great Duties of a Christians life commanded in the new Law, *viz. of loving our enemies, and taking up the cross*; For as some have dreamed, these are not so onely to be esteemed, as if they were onely Counsels to a more perfect life, propounded to all men under the condition of a more large reward, and oblige no man under sin and punishment, but those onely who by a vow have obliged themselves to the observation of them: But they expressly in themselves are Precepts, and properly so called, and universally obliging, to the observation whereof all those who profess the Name of Christ are bound under the guilt of the most grievous sin; to wit, the abnegation of Christ, and the punishment of eternal damnation unless they truly do repent. And thus much concerning *the second Light of the mind.*

XXXV. The third remaineth, which we call the *light acquired*; which surely is nothing else but an addition or increase of that light (whether of *Nature* or *Revelation*) which was before in the minde, to some more eminent degree of clearness; as when the will of God, the knowledge whereof hath hitherto shined into our minds (whether internally imprinted by the light of Nature, or externally revealed by the *Word*) or whether by our own meditation, or by the institution of others, is now more excellently, and more illustriously made manifest unto us. The chief *Helps* or *Mediums* thereunto are the *Discourse of Reason* and *Authority*; the last

last of which is the Judgement, and the Practice of the Church; of which neither doth the time permit to speak much, neither doth it self require that many things should be spoken of it. From the *Law of Nature* many particular Propositions of things to be done, like so many *Conclusions* from their *Principles*, are deduced by the *discourse of Reason* to the use of the Conscience; In which, unless we orderly proceed from the first unto the last, we shall be apt to erre, as already I have expressed; we must therefore be very carefull, that in every part of the *Discourse* the proceeding be legitimate, that those things that follow, may aptly depend upon those which go before, and that the consequence be necessary; lest the Conscience being mis-led, do not dictate *this* or *that* or otherwise to the *will* than what it ought to do. It is again to be feared, lest we erre also in applying the holy Scripture unto the use of the Conscience, unless a due regard of *Reason* be had unto *Reason*, and of *Authority* unto *Authority*. The Papists, while they bestow all their studies that nothing be taken away from the *Authority* of the Church, they give but little unto *Reason*. The Socinians on the other side, whiles rejecting all *Authority*, they do measure *Faith* by *Reason* onely, they do onely attain unto this, that they grow *mad with reason*. Both have the same errour, but it variously deceiveth; And both rocks shall not more easily be avoided, than if *Authority* with *Reason*, and *Reason* with *Authority* shall handsomely and prudently be conjoynd.

XXXVI. What place either of them ought to have in the right and orderly unfolding and applying the holy Scripture, it is not for this time, or my present

present purpose to represent unto you; I shall touch upon it in few words: There is especially a two-fold Use of *Reason* in relation to the Scriptures, *Collative* and *Illative*; *Collative*, diligently to compare those divers places of Scripture, especially those which seem to bear a remarkable correspondence, or repugnancy amongst themselves. *Illative*, the propriety of the words, the context and the scope being found out, effectually and artificially to infer Doctrines; being in the mean time not forgetfull that we must attribute, so much the more, to humane *Reason* in things to be done, than in things to be believed, as the *mysteries of Faith* do more exceed the capacity of natural understanding than the *Offices of Life*.

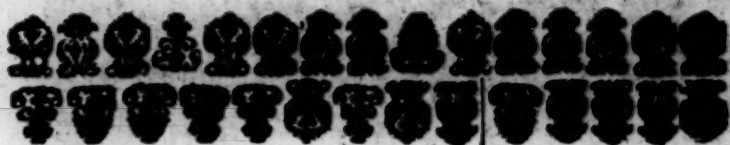
XXXVII. The chiefest use of *Authority* is to beat down the boldness of Hereticks and Impostor, who indeavour to cast a mist over the clearest testimonies of the Scripture, and to elude the force of them with their subtilties and distinctions; whose mouths you can no better stop, nor more effectually preserve your selves and others from the contagion of them, than by opposing unto their Sophisms and Deceits, the *Judgement* and *Practice*, not of one, or of a few men, not of one Age, or of one corner of the Church, but of the whole Catholick Church, of all places, and all times, spread over the whole face of the Earth; so heretofore those great Advocates of the Christian Faith, *Irenaeus*, *Tertullian*, *Vicentius*, and others; judged it to be their safest course to deal with their Adversaries by the *right of prescription*; which how advantageous it hath been to Christendome, the event hath taught. But those things which deserve a larger

ger consideration, I am now forced to omit, being  
mindfull of the time, of you, and of my self, and  
to defer unto another day what remaineth to be  
spoken concerning the *Obligation of Humane  
Laws.*

L 2

THE





THE  
FIFTH LECTURE,

In which the Question is thorowly  
handled, concerning the Obliga-  
tion of Humane Laws in  
general.

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ROM. 13. 5.

*wherefore you must be subject, not because of an-  
ger onely, but for conscience sake.*



Having begun the last Term to treat  
of the *passive obligation of Consci-  
ence*, I proceeded so far, that  
having discovered and disclaimed  
those *subterfuges*, in which a sedu-  
ced generation of men do vainly  
flatter themselves, that there is some excuse or  
protection either for the fruit of their Consciences,  
as to things already done, or some security for  
things that remain to be done, for the *Intention* of a  
good

good end or by the authority of another mans example, or judgment; I have proceeded, I say, so far as to examine and represent unto you that proper and Adequate Rule of Conscience to which absolutely and simply it ought to conform it self, where in the first place I shewed you that God only hath an absolute and direct command over the Consciences of men. Secondly, that the next, and immediate Rule of Conscience, is the light with which the mind at that present is endued, or ( to speak after the Schoolmen ) *Ultimum iudicium Intellectus practici*; The last judgment of the practical understanding. Thirdly, that the written word of God, is indeed the supreme and primary, but not the Ade. ἡ τελειο-  
quate Rule of Conscience. \* Fourthly, that the pro- ταλα πρῶ-  
per and Adequate Rule of Conscience is the will of ταςικὸς  
God, which way soever it be revealed, or ( which εἰς τὸ  
is the same again ) the Law imposed by God upon πρᾶξιν.  
the reasonable Creature; Moreover, ( that more \* 4.  
fully and more distinctly we may understand what  
this will of God is, ) I made manifest unto you, that  
Almighty God did lay open his Will unto mankind  
by a threefold means. First, by the Law of Na- 1.  
ture, which consisteth of certain practical Principles  
known by themselves, which is called the Law of  
God written in our hearts, Rom. 2. 15. Which is  
with an inward light, and of the same original as  
our minds; Secondly by the written word of God, 2.  
which is contained in both the volumes of the holy  
Writ, and is an external light supernaturally re-  
vealed, and infused into our minds; Thirdly by a 3.  
knowledge obtained from both the former, either  
by our own meditation, or from the Instruction  
and Institution of others, and this as it were by an

acquired light, the chief helps and introductions whereunto, are the *Discourse of Reason*, and the *Authority*, that is to say, the *Judgment* and the *practice* of the universal Church.

II. I also did advertise you (to make some way to this following Treatise) that besides the Law of God, which absolutely by its self, and by its own peculiar power doth oblige the Consciences of all men, and that in the *highest Degree*, there are also many others which do carry an obligation with them, but inferiour to the former, and do oblige the Conscience not *primarily* and by *themselves*, but *secondarily* and by *consequence*, not *absolutely*, but *relatively*, not by its *own power*, but by the vertue of some *divine precept* or *Institution* on which they are grounded; which although they do all agree in this, that whatsoever power of obligation they have, they altogether acknowledge it as proceeding from the Law of God; *For the first in every kind whatsoever it be is the cause of the rest*, neither would the Law of God (as already it is stated) be the *Adequate Rule of Conscience*, if it should oblige any beyond it self, which it did not oblige by vertue of it self; yet these things (as I have said) that do so agree in one, notwithstanding every one of them differ amongst themselves, not only in the *Species* by reason of the diversity of the matter, but also in the *Degree* according to the *efficacy of the obliging*; and they chiefly consist in a threefold difference, for some of them do oblige *constantly*, of which there are two kinds, The one in reference to those things whose obligation doth arise from the power of another, as *humane Laws*, the Commandements of *Parents, Masters*, and the like; The other in reference

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## Concerning the obligation of Humane Laws.

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ference to those, whose obligation doth arise from the free election of the will it self, As Vows, Oaths, Contracts, Promises and the like; Somthings again do only oblige by accident and as it were cursorily, according to Time and Place and the exigence of other circumstances, as the Law, or Reason of Scandal.

The privilege and priority of order and method do require that we begin with humane Laws, concerning the obligation whereof those things which at this time shall be spoken of, may all of them be reduced to these two questions. 1. Whether humane Laws do oblige the Consciences, and secondly, how far they do oblige them. The determining of most of the particular cases do pertain chiefly to the latter Question, which, God willing, shall be the Subject of our following Lecture, we shall only at this time touch upon the first, which is, Whether humane Laws do oblige the Consciences. The Subject of the question needeth not any large exposition. Lex or the Law is first so called in an active construction, a legendo, id est eligendo, from choosing, as Cicero will have it; because the Lawgivers do make choyce of those things which they conceive to be most profitable to the Common-wealth. Or secondly as others will have it, Lex, or the Law, is so called a legendo, from reading, and that in a passive construction; because the Laws after they were Enacted were engraven in Tables of Brasse, or otherwise legibly written, and fastned unto Pillars to be read in publick by the people; Or lastly, according to other mens derivation. Lex is so called a ligando that is from binding; because it doth bind the Subjects to the observation of it; but in the

Delectus  
vim in lee  
ge ponimus  
Cicero 1.  
de legibus.

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2.

3.

Aquin. 1.  
2. quest.  
90. Arti  
16. Biel.  
3. dist.



Genus of it, it is nothing else, than a *Rule of acting imposed on the Subject by the Superiour being impowered thereunto*. They are called *humane Laws* in opposition to *Divine*; for as those *Laws* are called *Divine*, which immediately are constituted by the authority of God himself, whether they be *Laws Natural*, or *Laws Positive*, so those *Laws* are said to be *Humane*, which although they have an authority derived to them from God, yet they are immediately commanded by men, and imposed on their Subjects.

3.  
12. 2. 2.  
quest. 90  
arti 4.

III. The *Law of man* is thus defined by *Aquinas*, It is the ordination of Reason to a common good promulgated by him who hath the care of the Commonalty. His words are, *Lex humana est Rationis ordinatio ad Bonum Commune, ab eo qui curam Communitatis habet promulgata*. By others it is defined otherwise, they differ in the words, but almost all of them doe agree in the sense; and well so they may, for this Definition is very suitable to the *publick Law* which is the most known and the most usual acceptation of that word. And so we use to speak, *Analogum per se positum pro famosiore significato presumitur*, an *Analogick* being placed by it self is presumed to stand for that which is the most remarkable in the signification; But in this present question, and to our present purpose, Under the Notion and Name of *Humane Laws*, the *publick Lawes* of Cummonalties are not only to be understood (although most chiefly they are, and primarily) but even the particular Commands of *Parents*, *Masters*, *Magistrates*, and all other Superiors, imposed on their Children, Servants, or their People; for when both of them are a kind of

*Precept*, in this one thing especially there is a Difference betwixt a *Law* properly so called, and a *Mandate*; for a *Mandate* or *Command* is but the *Precept* of a private person invested with a private Authority; but the *Law* is a publick precept of a person indued with a publick Authority. In all other considerations there is but little diversity. Certainly, as to the effect, and force of obliging, since it is apparent by the tenth verse of this Chap. that all Legitimate Power whatsoever it be, not only *publick*, (which notwithstanding I must confess to be the only meaning of the Apostle in that place) but also all *private power* is constituted of God, and the Command of a Father to his Son, is no lesse a *Rule for acting*, than the Law of the Prince to his Subject; all those things which I shall now discourse of concerning the obligation of humane Lawes, are so to be understood, (and let this one premonition suffice) that the *mandates* of private persons be comprehended in the *publick Lawes*, and *economical Commands* with *Politicall Constitutions*, and others of the like nature, as far as the Course, and Consideration of the Analogy will permit. And thus much be spoken of the Subject of the Question: The *Pradicate* followeth.

V. The *Pradicate* of the Question is the *obligation of the Conscience*. Now what *Conscience* is, and what is an *Obligation* in the generality of it, hath largely enough been already unfolded by me, neither is there any need of repetition; When we say the Law doth oblige we mean nothing else than that the Law doth impose on the Subject a *Necessity* of observing and obeying it.

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You are to know that the Law of its own Nature, and as it is a *Law*, doth cary in it self a double force or necessary effect, *that is*, the force of directing, from whence it is called a *Canon* or a *Rule*, as it layes open to the Subject the will of the Superiour, and sheweth what it is that he would have to be performed by him; and a power of obliging ( by which it differs from *Counsel* and *Admonishment*, ) because it commandeth the Subject to obey his will, and doth so oblige him to the performance of it, that if he doth not obey him, he doth sin or erre, for Sin is nothing else but an aberration or a receding from that *Rule* or *Law* which we ought to follow, *ἡμαρτία ἐκ νόμου*, so Monsters by receding from the ordinary Law of Nature, are said to be the *sins of Nature*. In the

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second place you are to know, that the effect of this Law, that is *the* *obligative power* of it, is grounded on the *Will*, and the *power of the Lawgiver*, so that to speak properly, the *Law* it self doth not bind so *effectually*, as the *Will* and *Power* of the Lawgiver, by causing and inducing an obligation by the means of the *efficient Cause*; but it may be said, and indeed usually so it is, that the Law doth oblige *terminatively*, that is, as a Term of obligation, and by the vertue of an *exemplar Cause*, because it is that, to which a man is so obliged, that he may work according to the Rule of it; as an Artist in working is directed by the Copy that is propounded to him. In the third place it is to be observed,

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that to *oblige the Conscience*, is so to bind a man up unto obedience under a *mortal fault* ( as the Schoolmen speak it ) that if he prove disobedient, he is not only lyable to a *temporal punishment*, either ordained

damned by the Lawes, or so be inflicted according to the sentence of the Magistrate, but he is deservedly checked by his own Conscience, as guilty of the neglect of his Duty, and thereby of the Anger of God contracted on him.

V. The sense therefore of the Question is, Whether Humane Lawes have the power to oblige the Consciences of those men to whom they are exhibited, in the same way as I have now explained; amongst the Protestants Calvin doth deny it (as Bellarmin at least doth object against him) it is denied also by Beza and many others; Amongst the Papists it is denied by Gerson (Bellarmin himself confessing it) and by Almain; And as some affirm by Navarrus. Amongst the Protestants again it is affirmed by Musculus, Ursine, and others; And amongst the Papists it is confirmed by the Jesuits, and a great number of the Schoolmen; Some there are who do distinguish on it, as David Paraus and others; And it must needs indeed be acknowledged, if by the heat of too much opposition, and the affectation of contradiction, they had not on both sides erred, this controversy had long ago been cast out of the world; In disputations such as these, I oftentimes do call that to mind, which when I was a young man, I did read in *Aristotle* *ἔστι τῶς μὲν ὅτι, τῶς δ' οὐ*. It is manifest that it is so, but not why another doth dispute it so, In which place he disputes, *An principia sunt contraria?* Whether Principles are contrary? *An detur infinitum?* Whether there be an infiniteness or not? and the like, And therefore in these doubts (for this is the true sense and reading of that place in the third of the *Physics*) we had more need of an Arbitrator (who

Bellarmin  
3 de l. 1.  
9.

Rom. 13.



(who may reconcile both opinions differing rather in shew than in substance) than of a Judge, who while he determines one part doth condemn the other; And this indeed would prevail much in a great part of the controversies which with such contention of minds and bitterness of stile are now amongst parties carried on in the Christian world, if Divines would not suffer themselves to be swayed rather by faction than affection. Indeed in this present question (as far as I can judge by the perusal of those few books which the infirmity of my health, and the streightness of my time doth permit to look over) the height of the Spirit of contention being on both sides taken away, they neither of them do seem to me to be in any great error; but I conceive that those who *affirmatively* have defined this question (to speak freely what I think) have spoken more commodiously to the *institution* of our lives, & more carefully & safely to avoid the danger of *error*, and more properly to the form of *sound Doctrine*, than those who have defined it *negatively*. But that more distinctly I may propose unto you what I conceive is to be determined in this question, I will as briefly, and as clearly as I can, with some Conclusions comprehend and terminate the whole Subject; I will confirm my own opinion with some reasons, as need shall require, and I will answer the arguments which commonly are alleged by the adverse party.

VII. The first Conclusion is, *that Humane Laws if unjust do not oblige unto obedience*; The thing is manifest enough, if the words be rightly understood, and that no man might give a misunderstanding to them, we are to be advertised, that a *Law* may be said

said to be *unjust* either in respect of the *End*, or the *Manner*, or of some *Circumstance extrinsecal* to the *Law it self*, or in respect of the *Matter and Object* of the *Law*; For it differeth, if that be commanded which is manifestly *unjust*, or whether that which peradventure is not otherwise *unjust*, be yet unjustly commanded. That kind of Injustice which adhereth to the *Law it self*, *per se*, that is, of it self in respect of the thing *commanded* doth take away the obligation; but it taketh not away that obligation which commeth unto it *extrinsecally*, and as it were by accident, that is to say, by the fault of the Commander; For suppose that a Prince should by a Law made command something to be done, the doing whereof of *it self* were not unlawfull to be done; or should forbid that to be done which were not simply necessary; And suppose withall, there should be no such just cause why he should command this, or forbid that, being induced to it either by the desire of filthy Lucre, or the meer Lust of exercising his Tyranny, or by some other depraved affection of his mind, this Law is unjust indeed on the part of the King that did command it, but the Subject nevertheless is obliged to the obedience of it. The Reason is, because that Injustice doth hold altogether on the part of the *party commanding*, and not of the thing commanded; So that although the King could not without sin make such a Law, yet the Subject without sin could perform that which by that Law is commanded; And whatsoever the Subject can perform without sin, he is bound if commanded to perform by the Duty of obedience; Let the Prince himself look to it by what Counsel or Intention he enacted such a Law; It doth not belong

belong to me who am but his Subject to examine it, neither shall it be imputed unto me if he hath offended in it, but as long as nothing is commanded but what Lawfully may be performed, it shall be imputed to me if I am wanting in my Duty, and shall not obey him.

VIII. Moreover, I add this also, if the Law it self either in respect of the *Object* or the *Matter* be peradventure unjust, and grievous to the Subject, as for examples sake, if he demands the payment of a greater Subsidy than the occasion doth require, the Conscience of the Subject is not here freed from the obligation; But here again we are to distinguish; For a thing may be said to be unjust either as it is unfit or grievous to be born, or unlawful to be done; In the first Interpretation, if it be unjust what by the Law is commanded, that is if it be unequitable and not dishonest, yet if it be done, it is the fault only of him who doth command it, He that obeyeth the Command is so far from fault, that he should be a great Transgressor if he did not obey it; But in the latter sense, if any thing what is commanded be unjust, that is not only grievous to be born, but also shamefull to be done, and notwithstanding it is done, the Sin lyes heavy on both, First on the Magistrate who commanded an unjust thing, Secondly, on the Subject, who acted an unlawful one. The sense of the Conclusion is this, Wheresoever the Law by its Command doth forbid any thing to be done which is so necessary that it cannot be omitted by the Subject without Sin, or wheresoever the Law doth Command any thing to be done which is so unlawful that it cannot be put in execution without

Sin, that Law doth not oblige in Conscience.

IX. My first reason is, Because (as elsewhere I have fully explained) there is *no obligation for an unlawful Act*. Secondly (because as there also I have expressed) The first Obligation doth prejudge the following; insomuch that a new obligation contrary to the former cannot be superinduced; Now any Law commanding a thing unlawful, as homicide, Perjury, Sacrilege, or forbidding a necessary duty, as the worship of the true God, or the performance of our Duties to our Prince or Parents &c. doth exact that of us which is contrary to our former obligation, by the vertue of which divine Precept we were before obliged; therefore that humane Law cannot induce any obligation on us; The third Reason is, Because that no man can at the same time be obliged to *Contradictories*, but if that Law were obligatory, it would oblige to the performance of that thing which the Law of God at the same time doth oblige to the not performance of it; Now *to do and not to do* are Contradictories. The fourth Reason is deduced from the examples of godly men, who have been always so instructed by the principles of their Faith, that with a cheerfull spirit they have undertaken, and performed the grievous but not dishonest Commands of the Emperors; But if any thing though by the authority of Law was required of them which was against Faith, or good manners, or any ways repugnant to common honesty, they openly and courageously did deny the Command, and for the fear of God despised all humane Laws, and institutions. The Decree being made at *Babylon*, that the concert of musick being heard, they all should

De jura.  
pralec. 2.  
Sist. 13.

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should worship the great golden Image which the most mighty monarch had set up, and a most severe punishment threatened to those who should do otherwise, the three young men of the Hebrews would not suffer themselves to be obliged by that Law; *Dan. 3.* Because an unlawful thing, the worshiping of an Idol, was commanded. In the Law again of the Persians it being commanded, that no man for certain days should make a Petition to any God or man for any thing but to the King of Persians only, *Daniel* did not obey that Law, but as his Custom was, at his set houres he prayed unto God; *Dan. 16.* And *Peter* and *John* being forbidden to speak any more in the Name of *Jesus*, they not only disobeyed the Command; but confidently answered; Whether it be right in the sight of God to obey you rather than God judge yee. *Acts. 4.* The Reason indeed was, because the things that were forbidden were necessary, viz. The worship of the true God, and the preaching of the Gospel committed to their Charge.

1. X. The second Conclusion. The Law of man prohibiting a thing *simply* evil; as *Theft*, *Adultery*, *Sacrilege*, or commanding a thing good and necessary, as the worship of God, the discharge of Debts; the Honour of Parents, doth induce a new obligation in the Conscience. My first reason is, because the proper Cause being given, the necessary effect of it will follow, unless it be hindred by some other means; But an obligation is so necessary an effect of the Law, that some have thought that the very Name of the Law hath received its derivation from it, as already I have men ioned; And nothing seems to be here assigned which may hinder

hinder the consecution of its effect. The second reason is a *Minori ad majus*, from the *Less* to the *Greater*. By the confession of all men, a Law prohibiting a thing otherwise *Lawful*, or commanding a thing otherwise *free* doth oblige; therefore much more prohibiting a thing *unlawful*, or commanding a thing *free*. But something there appears that may be objected to both these reasons, *viz. Non esse multiplicanda Entia sine necessitate*; Beings are not to be multiplied without necessity; For every man by the power of the Divine Law being obliged to the performance of what is necessary, and the eschewing of what is unlawful, the same obligation doth exclude that, which we think to obtain by *humane Laws*, as superfluous; as water præexistent in a full vessel doth hinder the infusion of new moisture; And it seemes that *two obligations* to the same thing can no more be admitted in one Conscience, than can two *Accidents* of the same *Species* in one Subject. To this I answer, that it is usually spoken, and indeed truly enough, *Obligationem priorem præjudicare posteriori*, The former obligation doth prejudice and take place of the posterior, which Argument we our selves have even now made use of for the confirmation of the former Conclusion; But this *Saying* hath place only amongst those obligations which are Destructive to one another, and whose effects have so great a Contrariety, and Repugnancy amongst themselves, that one being admitted, the other of necessity must be taken away; Notwithstanding this doth not hinder, but that another and a new obligation may come unto the former, provided it be of the same reference, and can be consistent with it. Neither, in this con-

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deration, is that of any moment as is alleged for water in a full vessel, for the impediment why the full vessel admits of no more liquor, doth not consist in the part of the liquor, but proceeds from the incapacity of the vessel, and the nature of the place, which cannot at once receive more bodies; And nothing hindreth but there may be many *Accidents* of the same *Species* in one and the same *Subject*, provided they be *Relative* and not *Absolute*; as suppose that *Socrates* had ten Sons, there must be in *Socrates* ten *Paternities*, for relations are multiplied according to the multiplication of their *Terms*; And we said but even now, that the Law did oblige according to the manner of the *Term*. Therefore seeing that every Law, according to the nature of it, and as it is a *Law*, is an Inductive to an obligation, there will be so many obligations as there are *Lawes* being correspondent to them as to their *Terms*; Neither is this *Multiplicare entia sine necessitate*, to multiply Beings without necessity, for the causes being multiplied, it is necessary that the effects of those causes should be multiplied also; And that it may seem incredible to none, we may behold it, or something very like unto it, to come to passe every day, both in *things natural* and *moral*; It is evident to the sense that a man may be tyed to a Pillar with two or three cords, as *Peter. Acts, 12. 6.* He slept δεδεμμένος αλυσσιν δύοις, bound with two chains; And it is to be doubted by none, but that a man having obliged himself to the performance of such a duty which by the Law of God was incumbent on him, he (notwithstanding that first obligation) may again oblige himself by *Vow*, or *Oath*, or *Promise*, to render that obligation

gation the more effectual. Thus *Jacob* the Patriarch vowed that *Jehovah* should be his only God, *Gen.* 28. 21. And *David* swore that he would keep the righteous Judgments of God, *Psal.* 119. 106. And all of us who are Christians, when we were sprinkled at the Fount, did by a new Covenant of Baptism bind our selves to Faith in Christ, to renounce the *Devill*, the *World*, and the *Flesh*, and to keep the commandments of God, to the performance of all which duties most sure it is that we were obliged before.

XI. The third Conclusion. *Humane Lawes (whether things unlawful, or necessary, or things indifferent be commanded) being made by a single Person or by a Commonalty not having a lawful power, do not oblige in Conscience.* As if the Mayor of this City should impose Laws on this University, or my next Neighbour should command my servant to yoke my Oxen to bring in his harvest, &c. Or as if a company of seditious Persons being met in some one County of *England* (as they did heretofore under the conduct of *Ket* in *Norfolk*, and many times in other places) should demand of the inhabitants a certain Sum of money, or should publish Edicts to exact a servitude of their persons not due unto them, and by force of Armes should compel them to obedience; although it peradventure were lawful for them to do as they were commanded (it being found they were unable to make resistance) yet certainly their commands should oblige no man in Conscience to the observation of them; First, because the said Laws are Laws only *Aquin.* 1. in name, and *equivocally*; But in deed, and in *2. quæst.* earnest they are rather *violences* than *Laws*, and *96. art. 4.*



[an *equivocal Cause* doth infer no effect ; as a sentence spoken by one who is no *Judge* doth not oblige the Parties ; And Secondly, Because the Power of obliging ( as already hath been mentioned ) is not *effectively* derived from the Law it self , but from a will joyning with the power of the Law-maker ; therefore where *Power* is wanting, the *Cause* that is properly the efficient of that obligation is wanting also , and the *proper Cause* being defective , it is necessary that its *Effect* should be deficient also ; And this is easie to be collected by the words of the Apostle in this place , who deduceth the Duty of obedience on the part of the Subject from the Power of Jurisdiction in the Magistrate ; from whence it is, no man is bound to *obey* him who hath not the Right of *Commanding*.

XII. If you shall object , that an unruly multitude of factious persons, such as before I have made mention of, have the *Power of Commanding*, because they can compel those to the performance of their commands , over whom they exercise their Tyranny ; I answer that the *Power* of which I speak , and on which *Obligation* doth depend, is not that Power which the Greeks call *δύναμις*, that is *Might* or *Puissance* ( which by most is used in this sense ) by which a man is potent to give such an effect to his Intention that it *finally* cannot be hindered , but that Power, which the Greeks call *ἐξουσία*, that is a lawful Power, which cometh by some Right of *Nature*, or of *Nations*, or by a *Civil Right*, in respect both of the person who bears it, and of those who are any wayes substituted under him. This Power in this present Argument the Apostle doth so much presse, that in the space almost of three Verses

he names it five times , and makes not the least mention of the other.

XIII. But you will allege, that those, who in the time of the Apostles were the supreme Governours, did ascend unto the height of the Empire, not by any Right of Inheritance, nor by the free Suffrages of the people, or any lawful Authority, but by Force and Treachery, or military Tumult, and yet the Apostle notwithstanding doth expressly attribute an *ἐξουσίαν*; that is a lawful Authority to them, as unto legitimate Magistrates, and imposeth on their Subjects a necessity of obeying them, and that not for fear of Punishment, but for Conscience sake. We must confesse indeed, that the first Emperors of Rome, after the eversion of the Commonwealth, did not attain unto the Empire by any great lawfulness of Right, yet withall we must confess, that they were invested with the *Right of the Sword*, and a legitimate Jurisdiction, to which all whosoever were under the Roman Power ought to be subject, for there was not then any single person that could challenge it as due unto him by more Right, and the Senate, and People of Rome in whose Power not long before, and for many Ages also was the chief Command, what by fear, and what by obsequiousness, did give way to the losse of their Privileges, and acknowledged those for their lawful Princes, who had obtained the Empire by unlawful Acts. This being granted, which certainly in my opinion can no wayes be denied, there can remain no other doubt concerning the necessity of obeying. But in a dubious case, what is the duty of a Christian, whether and how far he is obliged in the Court of Conscience to give way unto the

Times, and to accommodate himself to the present manners, and be obedient to the Lawes, the Edicts, and the Commands of one who in his Judgment at least hath attained to the Sovereignty *de facto*, that is by Power and by no Right at all, it is no easy thing to judge, neither is it the part of a wise man to determine any thing on so great, and so high a Point.

XIV, I here therefore do conclude on nothing positively; but that I may not be censured to be wanting in my duty, or at least to your expectation, if I should make mention of a Question, and give you not the least satisfaction in it, I will in a few words expound unto you what seemeth to me (having been very serious hereupon) to be most consentaneous to true reason, unless peradventure some circumstances, as oftentimes it comes about in such deliberations, shall grow too much upon my Judgment. In the first place therefore I say, That he who *de facto* is chief Magistrate in a City, or Nation, although he hath attained to that power by evil Arts, is nevertheless to be esteemed by the Citizen as his lawful Prince, and by the obligation of his Conscience he is accordingly bound to obey him, provided there be no just cause of any doubt to the contrary; And in this case, this seems to be the only and just cause of doubt, when most certainly it is manifest, or at least when it seems very probable to the Citizen, that there is some other person to whom the chief power is due by greater right. If this be not so, the Citizen cannot in a good Conscience refuse the commands of the present Possessor; For ordinarily, it doth not belong unto a Citizen too curiously

riously to enquire by what right the possessor doth possesse, it may suffice him for the security of his Conscience that he doth possesse *de facto*, and there is no other man, at least so far as he knows, who ought by right to possesse that place; And besides that which I have already spoken concerning the Roman Emperors, the Government of that Commonwealth being subverted; to this the whole History almost of all the Kings of *Israel* doth pertain, many of whom relying not so much as on the least shadow of Right, but having obtained the Kingdom by unjust Arms, and nefarious wickedness (the Royal off-spring of their Predecessors being utterly extinguished, that not one of them might remain to succeed in their Fathers Dignities) did ascend the Royal Throne, and governed the Kingdom, by a full and as it were a proper Power, and the people rendered obedience to them no otherwise than if they had been invested in it by the greatest right; Neither do we find that the people were ever blamed for it, But right reason rather persuaded that it so ought to be done; For it concerned the publick safety, that there should be one who should sit at the Helm of Government, and it could not otherwise be better provided for the affairs of his people, and himself, than that he should be esteemed to have the greatest right, who as a true possessor had no right at all; And by the Law of Nations, those things which belong to none, do passe into the right of the present possessors of them.

XV. In the second place I say, That in an Hereditary Kingdom, where the right is doubtful betwixt two or more *Competitors*, it is the part of



a good Citizen whiles the contention is yet depending, and the right to be discerned by a friendly treaty, or by war, to obey him as his lawful Prince who is in present possession of the Sovereign command. Of this Histories can every where afford us very many examples; amongst those which are most remarkable, are the many differences which happened amongst the comperitors of the Kingdom of *Portugall* after the death of King *Sebastian*; And the six contestations at least for the Kingdom of *Scotland* after the death of *Alexander* the King; And the most fierce and lasting contention for the Government of the English Nation between the most noble families of *York* and *Lancaster*; Most certain it is, by the consent of all nations throughout the world, that the Law did alwayes favour the Person possessing; And in these Cases that remarkable saying of the Civilians always prevailed, *In rebus dubiis melior est conditio possidentis*, In doubtful things the condition of the Possessor is always the better.

XVI. But again, the lawful Prince and Heir of the Kingdom being forced away by the Power of Arms, or being so oppressed that he cannot prosecute his own Right, If any person whatsoever (the said Prince yet living) shall violently take into his own hands the Reigns of Government, and deport himself as a King, when he is more truly an Usurper, so that now it is no longer a doubtful right, but an *open injury*; If you demand of me what a good Citizen shall do in this condition, who peradventure hath taken the Oath of Allegiance in the behal of his lawfull Prince, or if he hath not, yet he is no lesse induryed to him, than if he had taken

it, I say in the third place, that a good Citizen may not only lawfully obey the Laws of him who Governs *de facto*, and not *de jure*, that is, by present power, and not by right, and perform all his commands ( provided there be nothing in them that is *unjust*, or *foul*, ) but according to the condition of humane affairs, there may be such an exigence of necessity ( as oftentimes it so comes to passe ) that he may be adjudged to fail even in his duty, if he doth not do it. It may be objected, that but even now it was said, that *Laws made by one who hath no lawful power do not oblige in Conscience*; It was so said indeed, and it was truly said so, and I believe what I have now proposed is not repugnant to it; For suppose that a Subject be obliged to perform what by the Law is forbidden, yet he is not bound to the Law, but to *himself* and to his Country. The obligation is annexed to that Law which is *truly so of it self*, & as it is a Law, and it necessarily followeth it, as the Effect followeth its Cause. We have already said, that a Law made by one who hath no right unto the Government is not a Law properly but *equivocally*, & therefore hath no power to oblige; Therefore whatsoever obligation doth from hence appear to charge the Conscience of the Subject, doth arise from another account, and not from the Law it self to whom this obligation comes *extrinsically* and only by accident, as if a professor of Musick should act the part of a Mason.

XVII. You will demand, If not from the Law, from whence then proceedeth this obligation of the Subject? I answer; It being the part of a pious and prudent man, not only to attend on that which

which is lawful, but also to observe what becometh himself, and is expedient for others; A good Citizen may be obliged to do that for the advantage of himself, and his fellow-Citizens, to the performance whereof he is not upon any account, or by any right obliged. For this obligation doth arise from that double part of duty, by which every man is a debtor to himself, and a debtor to his Country; In the first place it belongs to a *prudent man* to provide for himself, and for his own affairs; and it belongs to an *honest man* to consider in what present condition he is; For no man will deny, even by the Dictates of Nature, but that all must endeavour by all lawful ways and means, to defend their lively-hood, and themselves, and so to deport themselves, that they may live safely, and in peace, to have and to hold to themselves their own Fields, Houses, and possessions, and be careful not to offend those who at their pleasure can take from them both their lives and their fortunes; And from hence is the first necessity of obedience, which our Apostle therefore doth not so much urge as suppose, because that every man is endued with the sense thereof by Nature; *ἡ μὲν δὴ τὸ ἐγγύς*,  
 Rom. 13. 5. *not only for wrath*, as if it were not the part of a discreet man rashly to provoke his wrath who hath the power of the Sword in his own hand, and by his contumacy to incurre his displeasure upon no occasion; It should become him for the advantage of his own safety, to endure many affronts, to obey Laws, and as much as can be without Sin, *ταῖς ἐξουσίαις ὑποτάσσας*, to submit to the present powers; and thus, though he cannot shake off the yolk, yet by well enduring it, to make it more gentle, and more easy.

XVIII. But

XVIII. But he whosoever he is who from a Politick Government shall diligently observe with himself what good from thence may be derived to his Country, shall find himself bound to the performance of this, with another, and a stronger obligation, and which more properly pertaineth to the Conscience; and so indeed St. *Chrysostome* in this place doth interpret those words of the Apostle *Μὴ τὸν οὐρανὸν*, as if the Apostle chiefly attended to the benefit received by that protection which a Civil Government conveyeth to the Subject; As if he should have said, Seeing that every Citizen is conscious to himself how many benefits he doth enjoy under a *politick Government*, he must know, that for the requital of so many and so great favours, he is bound by a certain Law of gratitude to pay due obedience to him who is invested with the highest Authority, *ὡς καὶ ἀνθρώπων δεῖται οὐ τὸν οὐρανόν*, as *Chrysostome* there speaks in a sense not much incommodous, unsuitable to the meaning of the Apostle, as by and by we shall represent unto you; I acknowledge the truth of that which by *Tacitus* is observed, *Raro fieri ut quis imperium flagitio questum bonis artibus exerceat*; It seldom comes to passe, that any man with good Arts doth exercise the ruling of an Empire which he hath obtained with wicked artifices, for with what Arts that Empires have been gained, by the same for the most part they are preserved, and wickedness is to be defended by wickednesse; Neverthelesse that it may be done, the examples of *Hiero the Sicilian*, and of *Edgar King of England*, and of many others do sufficiently declare, who modestly have mannaged the



the Government of a Nation which not so rightly they had obtained; But howsoever a Prince doth mannage his affairs, he can never so abuse his power, as not in the mean time to be *ὁ δὲ πρῶτος* *ἰσχυρὰς*, the Minister of God, for good, as the Apostle speaketh in the fourth verse of that Chapter; for there cannot be so great a Tyranny which doth not retain some shew of a just Government, and doth not, at least a little, conduce to maintain the society of men, as Calvin rightly on this Text observeth it. Seeing therefore that we are Masters of our own Estates, and do live safe from slaughter, and rapine, & seeing that even that we live is a Debt we do owe to the chief Powers (without which there would be no defence or remedy against the huts, fury, and injuries of wicked persons) a most reasonable and righteous thing it is, that at least we should return something for so many benefits. The old form of Trafficking (an excellent Law of good and right) doth exact the same of us, *Δίδωμι καὶ λαμβάνω*, Give something, and take something; And certainly it argueth a most perverse mind, to be willing to live under the protection of his Government whom you are unwilling to obey, and to refuse his commands, under the umbrage of whose patronage you do find your safety.

XIX. Moreover, since no man is born only for himself, but for publick profit, and for mankind in general, there ariseth from hence a third necessity of obeying the present power, although it hath been procured by never such indirect means. From hence also it may in some manner appear what measure, and what bounds are to be given to that obedience which by the duty of Conscience is to

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be given to him who unjustly sits in the throne of supremacy; For whatsoever is to be done in a peculiar reference to its end, ought so to be done, as shall appear most necessary and profitable for the obtaining of that end; Now the end of Civil Government and of the obedience due unto it, is the tranquillity and safety of Humane society; As far therefore as the peace and safety of that society of which that Citizen is a Member doth require, so far he is bound to obey the commands of that person, who *de facto* is the chief Magistrate in that society. Now for the preservation of Humane societies there are three things very necessary; The first, *the defence of our Country* against all Foreign force, and endeavours of our Enemies. Secondly, *the administration of right*, that due rewards may be given to deserving Citizens, and punishments to the bad, which is the office of *distributive Justice*. Thirdly, the care of Commerce, and Merchandize, concerning buying, selling, exchanging, and all manner of contracts, which belongs unto *Justice Commutative*; In these three the safety of mankind is so contained, that unless they be executed, it cannot be but all things presently will run to ruine, all things and all places will be filled with Plunder, Slaughter, Deceit and Injuries, the lives of the most innocent Citizens, their Wives and Fortunes will become a prey, and a sport unto the lusts of our armed Superiours; to prevent which calamity, and that the petulancy of wicked men may timely be restrained, the only remedy is for good Citizens to remember that it belongs unto them in all things pertaining to the publick safety, to be obedient to their Laws, and Commands

mands, by whose Sword, & authority they are defended from the injuries & the violence of the Spoylers.

XX. But that no man may give a false interpretation to what here is spoken, they are to pay only such an obedience, that at the same time they are to remember, that they are no further obliged to it, than either the account of gratitude, or the safety of the publick do require; And the Laws of an Usurper are to be observed, not as obligatory by any right of the Commander, but as *Aquinas* rightly hath it, to  
 1. & 2. 2. *avoid offence, and the trouble of the Common-wealth.*  
 quest. 96.  
 art. 4.

In which case he saith we ought to depart from our own right, and he proves it out of the words of Christ, *Mat. 5. 40, 41. Ei qui vult tecum litigare, et tunicam tuam capere, dimitte et pallium, Et qui te angariabit ad miliare unum, abi cum eo duo, If any man will sue thee at the Law, and take away thy coat, let him have thy cloak also; And whosoever shall compell thee to go a mile, go with him twayn.* A man therefore may, and if occasion so requires, he ought to depart from his own right for his own peace, but much more for the publick tranquillity, and obey him who hath no lawful power to command; But above all he must have this Reserve, so to depart from his own right, that by so doing, he taketh not any thing away from the right of another; And *Abraham* in this did justly and wisely, *Gen. 14.* who though he made the King of *Sodom* partaker of the spoils which by the right of war was his portion from the five Kings that were overthrown, yet he cautelously provided, that both the Priest should have his *Tenths*, and his three Associates in the War should not want of their full proportions. In the like manner obedience is  
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so to be payed to an Usurper, that the fidelity due unto the lawful Heir be no ways violated, and that *his right* suffers no prejudice by it.

XXI. But it may be objected; How can this be done? That which is grateful to an Usurper cannot but be most ungrateful to the lawful Prince? No man can serve two Masters that look so contrary, all whose Votes, Studies and Counsels are violently carried on to the ruine and destruction of one another. I answer, the account being well computed, there is no reason that we should think that this obsequiousness of the Citizen, so ordered, and bounded, as we before have delivered, should be displeasing to the lawful Prince, but altogether to the Usurper; nay we may presume that with the consent of the true Prince himself, it ought to be so; For by this obedience the Citizen is not to be accounted to have assisted so much the unjust Possessor as the whole Commonalty, or Republick, the safety whereof doth no lesse concern the true Heir, than the unjust Possessor: Nay peradventure much more; because being the true Father of his Country he is to be believed to love it sincerely, & to wish it more happiness, than the other, who (having excluded him) hath thrust himself into his house, and hath exercised a command over his Family; and by how much the affections of a Mother to her Children are more pure, & vehement, than a Step-mothers, as may appear by that remarkable contestation of the two Harlots before *Solomon*, the true Mother who knew the Child to be her own desiring the safety of it, and that it should be given rather to another, nay, unto her Adversary, than that it should perish by the  
Sword,



Sword; so it is most likely, and it is to be presumed, that the lawful Heir hath a greater care of the safety of his people (whom although for the present under the yoke of a Stranger, yet he doth acknowledge them to be his own, & hopeth well that in time they will prove profitable to him,) than he who having newly usurped the supreme Magistracy will be more careful, it is likely, to establish his newly acquired Greatness, than to procure the safety of the publick, and therefore the lawful Heir had rather that as modestly as they could they should accommodate themselves to the present affairs for their own safety, than to run into a certain destruction, by making an unreasonable, and an unsuccessful opposition against one that overpowers them. And thus I have given you my opinion concerning this most difficult and high question, determining *positively* of nothing, but being ready, if any man shall render more certain reasons, to correct what hath been spoken, and to jump in to the same Judgment with him.

XXII. The fourth Conclusion followeth, *Humane Laws concerning things not unlawful, do by themselves, and directly, in the general oblige the Conscience.* Which is as much as to say, This general precept, that Subjects should obey humane Laws being duly made, is *obligatory directly and by its self*; And this Calvin himself, who doth not use to attribute too much to humane constitutions, doth acknowledge, who in the 4 Institute, 10. 5. 5. doth advise that such a distinction be made *inter Genus et Speciem*, betwixt the *General*, and the *Special*, that although it be denied that Laws in the *Special* do oblige the Conscience, yet it must be granted, that they have an obliging power in the

Gen.



own Power, *Dei potestate*, according to the Lord as the Apostle Peter in another place, and by consequence *Dei et eiusdem*, according unto Conscience, as the Apostle St. Paul hath it in this place.

XXIIII. The fifth Conclusion. *Humane Lawes, according to the solemn Constitution of them, doe oblige the Conscience, even in particular, and although not directly and by themselves, yet by Consequent, and by Vertue of the general Divine Commandment.* I say in the first place Lawes solemnly and rightly constituted, that is, both by reason of the efficient Cause, being made by him, who is indued with lawful Power, and by reason of the matter, commanding nothing unlawful, dishonest, or filthy, or any wayes unworthy the Duty of a Christian; For we already have asserted, that the Lawes which do offend in either of those two senses, are not obligatory. I say in the second place, *In the particular*, that is, to a particular Determination, in things of a middle Nature, and in others; As what, and how much tribute is to be paid; What merchandise is lawful, and what unlawful to be exported or to be imported in such and such a Country; What habits are suitable to such and such degrees in an University; What Statutes are dispensable, and what not, &c. I say in the third place, that such Lawes doe not oblige by themselves, and directly; I prove first because, that God alone is that Law-maker, who hath a most peculiar and direct Command over the Consciences of men. *There is but one Law-giver, who is able to save and destroy, James 4. 12.* In things of a middle nature, & which are indifferent (which for the most part are the subjects of humane Lawes) we do suppose that God made no Law

in particular, but left them all to the arbitration of those who are his Vice-gerents on Earth. It is proved thus in the second place, because that those things only do oblige *directly, and by themselves*, which oblige by reason of the *matter* as of an internal Cause, without any respect to the external Causes, the *Efficient* and the *Final*, which would have obliged of themselves, if they had not been commanded by Men; But things indifferent, and of a middle Nature, determined by a particular and positive humane Law, when they are so qualified in themselves, that before the Determination of them, they may freely be made, or nor be made by any, they do not oblige in respect of the *matter*, therefore *not of themselves*. I say in the third place, that the same Lawes notwithstanding doe oblige in particular by the *Consequent* and by Vertue of the *general Divine Commandement*; And because in this last position, the hinde of the whole controversy is turned, I will more plainly propound the Conclusion, which by and by I will more fully confirm; The Conclusion is this, *Positive humane Laws* being rightly and lawfully constituted, which contain particular determinations concerning things of a middle Nature and in themselves indifferent, and which before they are determined are free to be made, or to be unmade, do by the verue of of the Divine Commandement (by which we are bound to obey those who are set over us by God) so oblige the Consciences of the Subjects to perform obedience to them, that they are bound under the penalty of mortal Sin, and the fear of Gods displeasure, to give obedience to the said Laws, and if they shall fail in the performance thereof, they shall endure

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the checks and stings of their accusing Consciences.

XXIV. This Conclusion is confirmed by divers Reasons, the first whereof is taken from this present Text, *we must therefore be subjected, not only for wrath, but for Conscience sake.* The words in themselves are perspicuous enough; In the former verses the Apostle had largely insisted upon the necessity of *Christian Subjection*, which he urged chiefly by two Arguments, the one from the Institution, and the Ordination of God, in the two first verses, and the other from the fear of the Punishment of man, in the two verses following; In the way of recapitulation he briefly recollecteth either Argument, and repeateth them in this fifth verse, and (as it is very usual in the Scripture) in an *order inverted*, beginning the repetition from the latter, and the next member; As if he should have said, A great necessity of Obedience doth lye upon you in both respects, whether the fear of punishment may deter you, or the Conscience of the Duty may incite you; If you despise the Power and Authority of the Lawes, and do evil, consider with your selves, that the Magistrate who is set over you is the Minister of God, the Revenger of your neglected Duty, and ready to draw the Sword (with which God hath intrusted him) to inflict a corporal punishment due to the despisers of his Lawes. But if these things move you not, being deluded by a vain hope to find out one subterfuge or another to escape the force of his Arm, yet think on God the just Remembrancer of all Acts committed, whether they be good or evil, stand in awe of him as of a just Judge, Fear your own Consciences, those severe accusers, those faithful witnesses

nesses, and importunate Tormentors; you cannot avoid them by any Artifices, nor elude them by any Inventions. From the scope of this place, the Argument is thus framed; Those things, which being violated, do leave a Remorse upon the Conscience, do oblige the Conscience, for so it must necessarily be, that all remorse or reproof of Conscience must proceed from the sense of some obligation, as all other effects do follow their causes; but humane Laws being violated, do leave a remorse upon the Conscience, for that is the expre sence of those words in the Text, *Necessarii subiciuntur propter Conscientiam*, You must of necessity be subject for Conscience sake, you cannot keep your Consciencees upright, and safe, unless you be subjected; Therefore humane Laws do oblige the Conscience.

XXV. But some there are who to un-nerve the force of this Argument, do in this place give another Interpretation unto Conscience, and chiefly herein they defend themselves by the Authority of *Chrysostome*, as if no other Conscience was to be understood in this place, but a Conscience only of benefits which is derived unto subjects from the Political Government; I have made mention of this heretofore, and prayd it; for the sense, I confesse, is pious, though not so genuine; And I have thus much against it; For in the first place amongst the Ancients *Chrysostome* is singular in this Interpretation, whom hardly one or two amongst so many Interpreters have followed, *Theophylact* only, and *Occumenius* excepted, Who are not to be reputed in the number of witnesses, for they so tread in the footsteps of *Chrysostome*, that all three of them do make only but one witness. Secondly,

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3. the Apostle in this place (as it is very manifest) would induce something which should be of more moment, and more effectual to stir up the minds of men than *temporal punishment*; for which end it was better to affright them with the fear of the Divine anger, than to admonish them of any benefits received from men. Fourthly and lastly, the Apostle here in a short repetition of those reasons before alleged, would conclude his discourse of Christian Subjection; now in the two first Verses of this Chapter he did bring the reason, not from the *Conscience of the benefit*, but of the *duty*.
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XXVI. The second reason followeth, from the *use* and the *end* of the Laws; It being most necessary that they should be made and observed, for the preservation of humane societies in peace, and publick tranquillity, for otherwise there would be no certain *rule* of Contracts, no *measure* of Faith, and Civil Justice, which are the firmest bands of Cities, and societies; for the *natural*, and the *written Law* of God, although both of them by themselves are most perfect in their own kind, and being joyned do contain the particular Principles of supernatural faith, and the general Principles of things to be done, accommodated to all parts of life, yet neither of them doth descend to all those particulars, which either may be, or for the most part are necessary for the preservation of Peace and Order, in Cities, and Governments. For examples sake, the *Law of reason*, which is the same

time with the *Law of Nature* doth dictate, and the Scripture also in the next verse of this Chapter doth teach, that Tribute is to be paid for the maintenance of Princes, and of the charges of Wars, and other publick uses, but unless it be by a Law determined, how much is to be payed, and by what proportion, and by whom, and in what space of time, and other circumstances, either the payment will miscarry, or not be made timely enough, or else it will not be enough for the use of the Common-wealth. If you say, that by this Argument the necessity of Laws is proved indeed, but the obligation of them is not determined, for Subjects may be enforced to their duties by the denunciation of punishments; We confesse indeed the truth of this, if we should go no higher, but if furthermore we shall consider with our selves how headlong man is hurried to forbidden sins, and how bold to venture through them all, & how unfaithful a Keeper *Pain* is of *Duty*, unless that withall there be some sense of Religion to contain men in their duties, it will most easily appear how wisely Almighty God, the most prudent Moderator of all things, hath provided for the affairs of men, who hath endued their Consciences with a certain religious reverence to the Law, which doth grow up together with their use of Reason; From hence it comes to passe, that amongst the Heathens ignorant of the true God, there were scarce any one found of the ancient Legislators but pretended to the people, that the Laws which he made were delivered to him by some God; so asserting, he need not give you the names of *Numa*, *Zaleucus*, *Lycurgus*, and many others, whom the Hea-



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same with the *Law of Nature* doth dictate, and the Scripture also in the next verse of this Chapter doth teach, that Tribute is to be paid for the maintenance of Princes, and of the charges of Wars, and other publick uses, but unless it be by a Law determined, how much is to be payed, and by what proportion, and by whom, and in what space of time, and other circumstances, either the payment will miscarry, or not be made timely enough, or else it will not be enough for the use of the Common-wealth; If you say, that by this Argument the necessity of Laws is proved indeed, but the obligation of them is not determined, for Subjects may be enforced to their duties by the denunciation of punishments; We confesse indeed the truth of this, if we should go no higher, but if furthermore we shall consider without selves how headlong man is hurried to forbidden sins, and how bold to venture through them all, & how unfit such a Keeper *Pear* is of *Duty*, unless that withall there be some sense of Religion to contain men in their duties, it will most easily appear how wisely Almighty God, the most prudent Moderator of all things, hath provided for the affairs of men, who hath endued their Consciences with a certain religious reverence to the Law, which doth grow up together with their use of Reason; From hence it comes to passe, that amongst the Heathens ignorant of the true God, there were scarce any one found of the ancient Legislators but pretended to the people, that the Laws which he made were delivered to him by some God; so asserting, I need not give you the names of *Numa*, *Zoroaster*, *Lycurgus*, and many others, who on the *Harm*

ries make mention of, it being a truth so well known to all.

XXVII. The third argument is this; What is to be done *for the Lord*, we are bound in Conscience to the performance of it; But we are bound to be subject to Humane Laws rightly established (that is, so constituted by the supreme power, or by others receiving their Authority from it) for the Lord, *Pet. 2. 13. Be subject to every Ordinance of man for the Lords sake, whether it be to the King, ὡς κυρίου, as the Supreme* (which sufficiently expounds the meaning of St. Paul *ἐξουσίαι καὶ κυρία, the Higher Powers*, in the first verse of this Chapter) *or unto Governours, as unto them that are sent by him, &c.* And that these words *ὑπὸ τὸν κύριον, For the Lord, or for the Love of God* (as the French Translation hath it) doth imply the obligation of Conscience, is manifest in the first place by the use of the same expressions in other places of the Scripture, as *Eph. 6. 1.* where speaking of the Duty of Children towards their Parents, the words of the Text are, *Liberi obedite Parentibus vestris in κυρίῳ, in Domino; Children obey your Parents in the Lord;* And by the Duty of Servants to their Masters, in the same Chapter *v. 7. With good will δουλοῦντες τὸν κύριον, Serving the Lord and not men*, which in the third of the *Col. v. 23. is ὡς κυρίῳ, as to the Lord and not to Men*, as if he should say, *For Conscience and not for Wrath only*, or for the fear of God, rather than the dread of Men. It is manifest, Secondly, from the following words in that place of St. Peter, *ὅτι ἡτοῦς ἐστὶ τὸ θέλημα τοῦ θεοῦ, for so is the will of God;* And to St. Paul in the said sixth chapter of the *Ephesians*, and the sixth verse, speaking of the Duty of

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of servants, he exhorts them to obey their Masters in the sincerity of Heart *propter id dicitur* ~~et~~, doing the will of God from the Heart; Now the will of God is the very same Rule of Conscience which I have said to be the Rule Adequate.

XXVIII. The fourth Argument; What *Natural Reason* doth so prescribe to be done, that both the fault and the guilt of the fault are contracted, if it be not done, we are without all doubt obliged in Conscience to the doing of it; For since the *sense of Sin* pertaineth to the Conscience, as also doth the *fear of Punishment* which ariseth from it, whatsoever it is that the Mind rightly conceiveth doth induce the stain of a fault, and a guilt of punishment for that fault, it doth directly appertain to the obligation of the Conscience; Now *Natural Reason* (whose Judgement cannot be indirect) doth so far command us to obey *Humane Laws*, that if that obedience be not performed, we are immediately conscious to our selves, that it is merely by our own fault that we sayl in that Duty.

XXIX. The fifth Argument; The Violation of that which necessarily draweth along with it the Violation of the Laws of God, doth oblige the Conscience (because no man with a safe Conscience can violate the Law of God which is the Rule of the Conscience) but the violation of every particular Law solemnly constituted by Men, doth necessarily draw along with it the violation of the Law of God, to wit, of that General Commandment by which God commandeth obedience to the Magistrate; Therefore the said Violation of the particular Law of Men doth oblige the Conscience.

XXX. The sixth Argument; We are bound in  
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Conscience not to Act that, which ( if it were acted ) is in a manner to resist God himself ; For we are bound to, be subject, and to, submit ourselves unto God, and therefore not to resist him, for *Subjection* and *Resistance* are contrary unto one another, neither can any Man at the same time, be subject unto, and resist the same person ; But not to obey Humane Laws solemnly constituted, is, interpretatively, to resist God ; For he who obeyeth not the Laws, doth disobey the Legislative power of the Magistrate, which whosoever he is that doth it ( the said power being ordained by God ) he doth oppose himself against Gods Ordinance, and by Consequence & interpretatively he doth oppose God himself, which is the Determination of St. Paul in the second verse of this chapter, and from whence he orderly concludes the necessity of Subjection *Subj. 1. 1.* according to Conscience, in this verse.

XXXI. From what hath been already spoken, it will be no great difficulty to answer to the Arguments which commonly are objected by the Adversaries to this Truth: The first and chiefest whereof, is taken from *Christian Liberty*, and to the Confirmation of it, many places of Scripture are alleged with much pomp & circumstance, which seem to ad stipulate to that *Liberty*; And many are the objections wch. from hence do take their Rise. They allege, it is written by St. Paul, 1 Cor. 7. 22. *Ye are bought with a price, be ye not made the Servants of men*; And again Gal. 5. 6. *Stand firm in that liberty in which Christ hath set you free, and be not intangled again with the yoke of bondage*. And again Col. 2. 16. *Let no man judge you in meat or drink* &c. and other places to the same effect. They

dispute also that it is not likely that Christ at last should have freed us so from the positive Laws of God himself, which were certainly most just, to leave us captivated under the slavish Bondage of the Laws of Men.

XXXII. I will answer to all these places, but I would have you first preadvertised, seeing that there are many Texts and heads of Christian liberty, that we diligently do take heed not too rashly to confound them, neither rudely and unskillfully to wrest and cite those places of Scripture which pertain to one kind of Liberty to another kind to which they do not belong; which *transfession to another kind* is not only the perpetual and Solemn vice of the *Antinomians*, and the *Anabaptists*, but of many others who would be esteemed the Reformers of this age; and this as they often put in practice in other disputations, so most especially in those where the debate is concerning the Rites of the Church; having thus preadmonished you of their Errors, I now proceed to the solution of their Arguments. In that Text to the *Corinthians* the Apostle would exhort the faithful, that in whatsoever place God had constituted them, and with whatsoever gifts he had indued them, that contented in that Station they would modestly contain themselves within their own limits, measuring themselves by the gifts, and calling of God, and accordingly accommodate their lives and actions, whether they be servants or free, and not so enslave and emancipate their Consciences to the Judgment and command of any Man, as wholly to depend upon his *Will and Opinion*, but being mindfull that he is the

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servant of God, and of the Lord Jesus, so to study to please men, and to be subservient to their affections and commands, as to do nothing unworthy of a man who professeth himself to be the Servant of God and Christ; And this being the certain sense of the Apostle in that whole discourse, we may most truly conclude from hence, that we ought not to be obedient to the pleasures of Masters, Parents, or Princes, or any Mortals whatsoever, if they command any thing to be done which is wicked, or unlawful, for instead of being the Servants of God, this were to make themselves the Servants of Men; But he, who out of Conscience doth obey the just, honest, and profitable Constitutions of Men, is so far from being thought, that he is therefore the Servant of Men, that by the two chiefest of the Apostles, he is expressly said to *serve the Lord God, and not Men.* Eph. 6. 7. Col. 3. 23. and 1. Pet. 2. 16. In this Text, *To serve the Lord and not Men*, the particle of Negation (as usually in other places) is taken comparatively, that is to say, *rather* God than Men, he serveth God for himself, and Men for God; He serveth Men, as he performeth what is commanded by them, and he serveth God, as he doth it out of the Conscience of his Duty.

XXXIII. That other place to the *Galatians* is best of all to be understood by the whole scope of the Epistle; Some false Apostles in the Churches of *Galatia*, being either Jews, or Judaizing Christians, did violently contend (contrary to the institution of the Apostles in the Council at *Jerusalem*) that the Gentiles newly converted to the Faith, should not only be baptized but circum-

zed also; And those Impostors, as their custom is, under the pretence of piety, and a wicked diligence amongst the credulous vulgar, did so wonderfully prevayl, that they had drawn many into so great an error, that they thought they could never attain unto everlasting happinesse, unlesse they suffered themselves to be circumcized; The Spirit of the blessed Apostle not induring this wretched and growing Imposture, doth inveigh against the grossenesse of the error of it, with more than ordinary Indignation throughout the whole course almost of the Epistle; And amongst other Arguments he admonisheth the *Galatians* of that liberty, by which Christ after his coming did free his Church from the unprofitable burden and yoke of the *Mosaic* Ceremonies, and doth exhort them constantly to maintain the liberty obtained by the death of Christ, and not to stoop their necks again unto the yoke of slavery, which they should altogether do, if they should believe the ritual observation of the dead letter of the Law to be necessary. Now how incongruously this is by the Anabaptists applyed to the Laws of Men, profitable and necessary for the Commonwealth, from which the Scriptures do nowhere tell us that Christ hath freed us, he is wilfully blind that doth not discern it.

XXXIV. The third place taken out of the Epistle to the *Colossians*, doth not at all appertain to Humane Laws rightly constituted concerning things of a middle nature, but to the Doctrines of Impostors, who dogmatically propounded to the people of God some things to be necessary, which God never commanded (which was the Custom of the Traditionary Pharisees, whom Christ *Mat. 15.*

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reprehends upon that account for making the Commandments of God of no effect by their Tradition) or clean contrary, they as dogmatically did forbid other things as unlawful, which God never did prohibit, injoyning the people as to such, and such things; *Touch not, taste not, handle not.* The Apostle admonisheth the *Colossians* to have a care of such dogmatizing Teachers, and not suffer any snare to be thrown upon their Consciences by these Impostors; Magistrates therefore in a political Government do not offend, who in things of a middle nature, do either command or prohibit any thing to the people for Profit, Honetty, Decency, or for Orders sake, but without any opinion of necessity on either side, which belongeth to the thing it self that is commanded or forbidden; Those pitiful Ministers (I may more truly call them Magistrates, so Magisterially they do pronounce all things) do rather offend, who so importunately vex and inveigh against the harmlesse Laws of Magistrates; and exercise a Tyranny over the Consciences of the people, and whatsoever is distastful to them, is presently condemned for Impiety, or at least for Superstition.

- XXXV. That which in the fourth place they do allege, that because Christ hath freed us from the positive Laws of God, therefore much more from the Laws of Men, is in many respects erroneous, and absurd; For in the first place it is not truly said, that Christ hath freed us from the positive Laws of God, by which we never were bound; For the positive Laws of God, or Men, do only oblige those on whom they are imposed; Now those Laws of God which they call *positive*, and from which they would

would have us freed by the death of Christ, whether they be *ritual* or *judicial* were only imposed on the Jews, but not on us who are Christians. Again, where it is manifest what God would have done, it doth not belong to us by any collation of Comparatives too saucily to determine what ought to be done; Now it is manifest that God would have both, he would have that his positive Laws delivered to the Israelits by *Moses* should not oblige the Christians, and that the Laws of men rightly and solemnly constituted by the Magistrates should oblige the people under their Authority. Thirdly, If this Argument indeed were of any force, those that make use of it do not observe, that by it they do not only take away the *obligation*, but altogether the *use* also of all humane Lawes; For Christ hath no otherwise freed us from the obligation of the *Mosaic* Laws, than so by taking away the use of them, that by us they are no more to be esteemed as Laws. Therefore if in the same manner he would have us to be free from the obligation of humane Laws, it must of necessity follow, that he would have no humane Laws to be any longer extant amongst us. So wild a proposition is this of the Anabaptists and other fanatick persons, neither is it admitted by themselves who do propound it.

XXXVI. Again, they object that of Saint James, Chapter the fourth, *there is but one Law-giver*, to wit God and Christ, who is only Lord of the Conscience; He is an invader thereof of Christs right, and thrusts himself into the Throne of God, whosoever he is that assumeth unto himself a power of obliging the Consciences of other men. Answer, There is indeed but one supreme Law-giver, who hath

hath a direct and Sovereign command over the Consciences of men, as *by himself* and by his own virtue and authority to oblige them, which Law-giver is God and Christ, as the Apostle hath it ; But this hinders not, but that there may be other Law-givers of an inferiour order and degree, who by a power granted and derived to them from that supreme Law-giver, have of themselves a right of making Laws which may consequently oblige the Conscience ; Just as a King who solely in his own Kingdom hath a peculiar Legislative power, yet notwithstanding by his Charter he may give to some College or Corporation, a right of making Laws, which may oblige all the members of that body, not by their own power, but by the force of the royal Donation, and the Authority granted to them from the King ; Our Universities ( as you all know ) are happy and rejoice in this privilege, that in a Legitimate Convocation they may make Laws which we call Statutes, and ordain punishments for Delinquents, and if it be expedient, they may abrogate again and cancel the same Statutes ; Now there is no man of a sober understanding who will conceive that the exercise of this power doth in any wayes derogate from the Legislative right of the King, or can be any deceit. or prejudice unto it, unless it be extended beyond the limits of the Donation defined in the Charter ; Nay it is rather an excellent, and a singular mark of the royal *autocracy*, that the King hath not only the Legislative power himself, but that he can vouchsafe it unto others to be had and used, his own right being notwithstanding safe and entire unto himself.

XXXVII. The other objections relying on one Founda-

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& the same Foundation may be resolved by one and the same labour; I will briefly run them over. In the third place they object, that the Civil power is merely *temporal*, & therefore belongeth not unto the Conscience which is *spiritual*. Fourthly, the end of Humane Laws is the *external* peace of the Commonwealth, and not the *internal* peace of the Conscience; therefore the Laws themselves do only oblige the outward man, and not the Conscience which lyeth within. Fifthly, the Magistrate cannot judge of Consciences, and therefore can make no Laws over them, it being the same extent of power, to give Laws, and to judge according to them. Sixthly, the Magistrate in making of Laws hath no intention of binding the Consciences of the people, but only to oblige them to perform that which the Law commandeth, which if it be done, it is all one to the profit of the Commonwealth, whether it be done out of any Conscience of duty or not, and it is enough if the effects of *Actions* be commensurated to the intention of the *Agents*, and they ought not further to be extended.

XXXVIII. I answer, and first *universally* to them all; By all these Arguments, this only is obtained, that humane Laws do not oblige *directly* and *by themselves*, or by their proper force, which of our own accord we grant; for we assert no other obligation but what comes to them *ex consequenti*, by Consequence, and by the virtue of the general command of God of rendering obedience to the higher powers; And from this ground, I answer to the particular objections; And as to the third, I say, that the Civil power being merely temporal, cannot of it self, and in respect of the Object in  
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which properly and immediately is verseth, have a spiritual effect, and therefore of it self cannot induce a spiritual obligation; nevertheless by consequence it may have a spiritual effect, by a derivation from the power of some superiour cause, in the virtue whereof it worketh; Now every Magistrate, as long as rightly and duely he doth exercise the Legislative Power which God hath put into his hands; he worketh in the virtue of God himself, and by ordination of him who is himself a *Spirit*, and as the Lord and Father of *Spirits* hath a Command over the *Spirits of men*.

XXXIX. I answer to the fourth; that although *peace* be an external blessing of a Commonalty, yet the internal Conscience is obliged to the uttermost to the procuring and preserving of it by all lawful and honest means, because that God the Lord of Conscience hath commanded us to love and follow *peace*, and if private, certainly much more publick peace. Neither is it any way inconsistent, that although Conscience be internal, yet it is obliged to a thing external; for the obligation of Conscience doth not arise from the Nature, or any condition of the *thing* or *Object* into which it is carried, but from the *will* of him who hath the right of obliging, that is, God himself.

XL. I answer to the fifth; that the Legislative and Judicial power doth *originally* pertain to the same person, that is, to him who hath the supreme jurisdiction over the Subjects; nevertheless *dispensatively* and by the will of the supreme Magistrate it may both of them and both ways be administered by other persons, as he shall think expedient. Therefore although God alone hath in himself a peculiar power

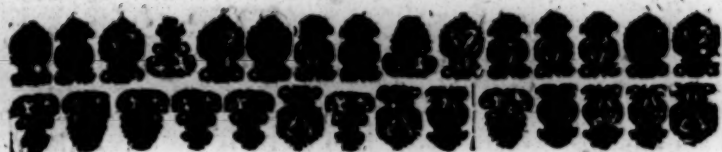
power over the Consciences of the Creature, and makerh as well as judgeth Laws by an original, proper, and absolute right, yet according to his good pleasure he may either delegate a dispensation of either power to another, or he may reserve it to himself; Therefore it would not be absurd if any man should grant that God in some measure hath delegated a Legislative power to the Magistrate of obliging Consciences, but hath reserved the Judicial power over them entire unto himself; But there is no necessity that compelleth us to grant this, or to use any expressions that may be helped although by never so gentle an interpretation; For we do not say this, that God hath given to the Magistrate a power to oblige by his Laws the Consciences of those that be under him, but this rather (which is a more wary and a more commodious kind of speaking) that God hath given to the Magistrate a power of making Laws, which (but by the only Authority of God himself) do oblige the Consciences of his Subjects; For to speak properly, the Magistrate doth not oblige the Conscience to obey the Law, but God obligeth the Conscience to obey the Magistrate.

XL. And by this, a way is made for an answer to the last objection. I do grant indeed that the effects of *Actions* ought not to be extended beyond the intention of the *Agents*, nevertheless where there are more *Agents subordinate* there is nothing hindreth but that the effect may be extended beyond the intention of the *inferiour Agent*, provided it doth not exceed the Intention of the *principal Agent*; As in the generation of a Monster (which being but boyes we have learned from *Aristotle*)

the effect, which is the production of the Monster, is besides the intention of the *second cause*, or as they speak it, of *Nature natures*, that is to say, of the person that begets or brings it forth, but it is not besides the intention of the first Cause, or of *Nature naturing*, that is, Almighty God. Therefore although the Magistrate in the making of a Law hath no explicit intention of obliging the Consciences, yet by instituting the Law, he doth institute that, which by the intention, & ordination of God, hath an implicit force of obliging them, & which necessarily is conjoynd to him. And this may suffice to be spoken of the obligation of Humane Laws in general; I will shortly proceed to the Questions, or particular doubtful Cases, if God shall permit, and my health be more constant to me.

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THE  
SIXTH LECTURE,

Of the Obligation of Humane Laws  
in reference to their material Cause.

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PROV. 8. 15.

*Per me reges regnant, et Legum conditores  
justa decernunt.*

*By me, Kings reign, and the makers of Laws  
do decree Justice.*

**I** Have reduced to two general Questions, or to two heads, what I have propounded to be spoken concerning the obligation of humane Laws; The first is, *whether humane Laws do oblige the Consciences of Subjects?* Concerning which in the former Lecture I have expounded to you what was my Judgment of it; The other Question is, *How they oblige?* To which question, I have told you, there be-



belongeth the deciding of some *Cases* and *Doubts* which meet in this subject; And because they are not few, nor of one kind, therefore to avoid Confusion, and that we may proceed in some Order and Method to that which is to be spoken, I have thought it not impertinent to give you a rough Representative of the whole Treatise now in hand; And that Method which most of you do remember, I observed in those my former exercitations concerning the *obligation of an oath*, I here conceive it very necessary for me to use again, that those things may all of them be reduced to the *four kind of Causes* which I conceive may commodiously be referred to them. But because I do find many things to remain which cannot easily be included in those bounds, we will assigne them their several *Glasses*; And they are chiefly two, the first of *Persons* who are under the obligation of those Laws; and the other in the *comparing* of the *obligatory Virtue* which is in Humane Laws, with that which ariseth from the Judgement of the Conscience, by Vowes, Oaths, Promises, Contracts, and from the Law of Scandal, or if there be any thing else which is elsewhere obligatory, for these two obligations do seem to be in a contestation and (jussling for prece-  
dency) to strive which of them should give place unto the other. To add the third Classis for some certain *species of Laws* which seem to contain in themselves something singular to themselves, such as are Ecclesiastical Laws Penal Laws, & the local statutes of Colleges, and lesse societies, will not peradventure be very necessary, seeing in some manner they may be reduced to something in the *four kinds of Causes*, and though not so aptly as to satisfy the

curious, yet so fully as to serve our present purpose; for whilst our hearers understand what it is we speak of, we have never taken any great care in what method we have gone. We will in the first place therefore (if God shall grant life, health, and opportunity to accomplish what we have propounded) speak of the obligation of the Laws as to the four kinds of Causes; In the second place of the persons who are obliged to the observation of those Laws; And lastly, of the *comparison* of the obligations which quarrel amongst themselves, giving you before-hand one or two distinctions which will be of great concernment in the whole management of this discourse.

II. We must understand therefore in the first place, Seeing that to the end of Political Government and order, there is a two-fold power in those who are invested with Sovereign Authority, A *directive power*, by which the Subjects may understand what they have to do, and a *Power Co-active* or *Coercitive* (for, by reason of the Analogy, it is better so to call it than Coercive) by which the Subjects may be compelled to the performance of those things that are commanded, if of their own accords they shall refuse to give obedience to them, both which are so contained in the Laws, that the one consisteth most in precepts, and the other is most to be seen in punishments; there ariseth from this double power of the Magistrate, a double duty of the Subject which answereth to that double power; The duty of Obedience in reference to the Directive power, and the duty of Subjection in reference to the power Coercitive; I here understand *subjection* as it is properly so called

led, by an appellation Generical, which as itself where it often comes to passe, is restrained to one certain *Species*; For obedience also is a *Species* of Subjection largely taken; The Apostle comprehends both those duties, *Heb. 13. 17.* and signifies them in those two words *πειθεσθε καὶ ὑπεικούετε* Obey them that have the oversight of you, and submit your selves; The first whereof pertaineth to the Duty of *obedience*, or of performing that which is commanded by a lawful Superior, the other to the Duty of *Subjection*, or of induring what by him shall be inflicted. Furthermore, As from a double Power, there ariseth a double Duty; so from a double Duty, there ariseth a double Obligation, for every Duty doth infer an Obligation, and every Obligation doth suppose a Duty; Therefore one kind of the Obligation of Humane Laws, is that, by which Subjects are bound to obey the precepts of the Law it self, and the other, by which they are bound to submit themselves to the power of the Law-giver, one of the Obligations belongeth to *Active Obedience*, the other unto that Obedience which is called *passive*, and to which we give the Name of *Submission*.

III. If it be here demanded how farr Humane Laws can oblige the Consciences of the Subject; It is to be said in the first place, that all Laws made by one invested by a lawful Power, do oblige to Subjection, so that it is not lawful for a Subject to resist the Supreme Power by force of Arms, whether things just or unjust be commanded. This we evermore the mind, and practice of the Christians in the first Age of the Church, living under the most grievous Tyranny of the greatest Enemies

to the name of Christ; & to make no mention herein of the Conduct, and the instinct of *Nature*, and the light of *right Reason*, this is most manifest by the Doctrine of the two chiefest of the Apostles. For so *Peter* the Apostle of Circumcision, doth diligently instruct the Jews; And so *Paul* the Doctor of the Gentiles, doth as carefully instruct the Gentiles; *St. Peter* in the first book and second chapter, commands Servants to be subject to their Masters, not only good and gentle Masters, but those severer ones, who would punish them with Scourges, when they had not deserved it. *Saint Paul, Rom. 13.* doth urge in many words the necessity of Subjection, but granteth unto none the Liberty of Resistance, be their case, or their pretence, never so good. In the second place, I say, That although this Subjection is *simply necessary*, yet it is not satisfactory as to *Duty*, unless the command of the Law be obeyed where it can be done without Sin, And therefore the Subject is bound to Obedience in Conscience, in all things that are lawful and honest. Hence it is, that this word *be Obedient* is so often, and so expressly inculcated by the Apostle. *Eph. 6. Col. 3.* and in other places. In the third place, I say, Where the precept of the Law cannot be observed without sin, if the Subject shall patiently submit himself to the Power of the Law-giver, he hath satisfied his Duty, and is not obliged in Conscience to perform that which the Law commandeth; nay, he is obliged not to do it; for there can be no Obligation to things unlawful; It is alwayes necessary therefore to be subject, but not alwayes necessary to obey.

IV. Furthermore, seeing both are certain, that  
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*Servitus  
in totum  
hominem  
non de-  
scendit.  
Sen. de  
Benef, 20.*

the Consciences of Men are free, and ought to be so, which Liberty no Humane Power can, or may infringe; And that an *Obligation* is a kind of a Bond, and doth induce a necessity, which seemeth to be opposite, and to fight with *just Liberty* (for neither is he any wayes free who is bound; neither can he be free to both, who by some necessity is bound to either) that it plainly may appear that this *Obligation of Conscience*, of which we now do treat, may consist with the *just Liberty of Conscience*, we must necessarily in this place give you another distinction, which is, that the *Precepts of Humane Law* may be taken two wayes, either *formally* for the *Act* it self of giving the precepts, or *materially* for the *thing precepted*; If the Law-giver therefore should intend an *Obligation*, or impose on the Subject a necessity of obeying, from giving the Precept of his Law taken *materially*, that is, from the necessity of the thing it self which is precepted, which notwithstanding in the truth of the thing, was not necessary before that Law was made, he in that very fact should lay a force upon the Conscience of the Subject, which should be repugnant to the Liberty of it; But if he should derive his *Obligation* from giving the precept of his Law taken *formally*, that is from the legitimate Authority with which he himself is invested that gives it (a moral indifference of the thing precepted in the mean time remaining, and in the same state in which it was before the Law was made) although the obligation followeth which imposeth on the Conscience a necessity of obeying, yet the inward Liberty of the Conscience remaineth uninjured and intire.

V. If this seems obscure to any, I will illustrate it

unto him by an Example ; A Civil Law being made , that no man should eat flesh during all the time of Lent , if the Law-giver either in the preface or in the body of that Law should signify that he laid this Command upon his Subjects , because it were ungodly , and unlawful for them in that time to eat flesh, This were to throw a Snare on the Consciences of his Subjects, & as much as in him lay to weaken their Liberty; But if expressly he should signify, that the thing being otherwise free in it self , he did so ordain it for the profit of the Commonwealth, that his Subjects according to the Example of the antient Church , should thereby take an occasion to exercise a more abstemious and severer Discipline ; or if by the words of the Law it self , or elsewhere it might appear, that the Law-giver intended not by that Law to fasten any opinion of necessity on the thing so commanded , there would on this account no injury be done to the Consciences of the Subjects , and the liberty thereof. For there is a great difference, when one thing is commanded by the Magistrate, because it is thought to be necessary, or is prohibited, because it is conceived to be unlawful, And when another thing begins then only to be thought necessary and lawful , after that it is commanded by the Magistrate, and unlawful , because it is forbidden by him. The first Necessity which anteceded the Law, and is supposed by it to be some cause of it, is contrary to the liberty of the Conscience ; but the other , which followeth the Law, and proceedeth from it as an effect thereof is not repugnant to it; The reason of this difference is , because the antecedent necessity which the Law suppoeth, doth  
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necessarily require some assent of the *'practical judgement'*; but to the following necessity which proceedeth from the Law, the consent of the will is sufficient to the performance of that outward work which by the Law is commanded. Now an *Act* of the will cannot prejudice the liberty of Conscience, as an *Act* of the judgement doth, for the *Act* of the will doth follow the dictates of the Conscience as the effect followeth its cause, but the *Act* of the judgement doth precede those Dictates, as the Cause goeth before its effect.

- VI. These distinctions being premised, I proceed unto the *Doubts*, whete in the first place those which we meet with concerning the *material Cause* shall be examined and discussed at this time. The first doubt is *De materia impossibili*, of a matter in it self impossible, concerning which I say in the first place, That no Law ought to be made concerning a matter altogether impossible; If such a Law be made, it is tyrannical, and by right null, and obligeth no man in Conscience; The first reason is, because that Laws are made in relation to *Acts*, as, to be acted by a man who is a free Agent; now liberty speaketh a power unto both, but in things impossible there is no such liberty of power, as by it self is manifest. Secondly, No man by right can be obliged to the performance of that, the omission whereof cannot be imputed as a *fault* unto him, nor ought to be imputed to him for *punishment* (for every obligation is either to a *fault*, or to a *punishment*, or to both) but the omission of a thing impossible cannot be imputed to any man for a fault, nor ought it to be imputed to any one for a punishment: *Er-go &c.* But that there is no obligation of a thing impossi-

impossible (whether it be impossible by the Nature of the thing, or by circumstances, or any other way) hath already by me been proved in my treatise of the obligation of an oath, and there is no need of repetition.

Prælect.  
2. Sect.  
12.

VII. I say in the second place; A Law which is possible to some, but seemeth to many other, or to but few, or peradventure but to one or two to be impossible, may lawfully be made, if it be useful to the Common-wealth, but not unless there be some extraordinary great cause, and a manifest necessity doth require it; but being made it doth oblige all those who are able to keep it, but not those who cannot keep it; as if some great Tribute were commanded for the necessary use of the Commonwealth, for the payment whereof some of the Subjects are nothing so able as others, Those who are so poor that they cannot pay the sum which the Law lays upon them, are not bound in Conscience to do that which they are unable to perform, as is already apparent by the proposition above mentioned; Nevertheless they are obliged to make their addresses to those who are over them, and openly, and sincerely, and without the least falshood, to profess the slenderesse of their Estate, and unless they can prevail to be quite exempted from the Law, or to procure a remission of some part of the sum with which they are taxed, they are to bring into the publick as great a part of it, as possibly they can; for he who cannot do what he ought to do, he yet ought to do what he is able to do.

μὴ δὲ ὄντι  
τῆς ἀξίας;  
ἀσέπῃ,  
τὸ πᾶν ἐλ-  
πίπῃ.  
Nazianz.  
Orac. 9.  
Debone  
omittere  
quod pos-  
sum, quo-  
niam quod  
debeo mi-  
nime pos-  
sum.

VIII. The second doubt is, concerning a thing commanded by the Law, not impossible, but very grievous, and very burthensome, and which the

Subject Bernard?



Subject cannot perform without great inconvenience, losse, danger of life, and the ruine of his whole Estate; I say in the first place, That in this case the Law-giver (if he foreseeth this will come to passe) ought to use some caution in the clauses of that Law, and as conveniently as he can, he is to provide a remedy for this Evil; And if it cannot so well be done in the form of the Law it self (lest subtil and deceitful Knives, and too much intent to their own profit may thereby find a hole to escape, and so elude the force of the Law) yet what possibly in him lyeth, he ought to provide, that in the execution of that Law some qualification may be had, lest a Law otherwise profitable and necessary may become a snare or a detriment to any honest man. I say in the second place, That the Subject, though so heavily taxed, is nevertheless bound in Conscience to obey that Law, although with the ruine of his whole Estate, if any evident or necessary Cause for the good of the Commonwealth doth so require. For example, suppose a hostile Army be invading the Kingdom, if a Law be made that all the corn in the Fields, for some miles, not far from the Shore, be spoiled, and all the Corn in the Barnes or Ricks which cannot be carried away, be burned, and that all the Houses in the Suburbs be pulled down, and that all the Sluces thereabouts shall be opened, and the Fields be drowned, every Citizen and Subject is directly bound to obey this Law, and cheerfully, and willingly to obey the Commands thereof, and with the losse of his own goods to redeem the publick safety, & not only upon that account, that his Country being betrayed to his Enemies by his unreasonable

• Χρητὸς  
 νόμος μὲν  
 ἵδ. ε. σ. δ. ε. ι.  
 σφ. πρῶτος,  
 περὶ νόμων  
 εἰς κολάσε  
 ζειν, ἢ ὡς  
 ἀπε. τοι. κε.  
 ἀ. υ. σ. ι.  
 It is ap.  
 Stob.  
 20746.

parsimo-

Parfimoniousness, it is sure enough that every private person will be suddenly sensible of the ensuing calamity, but especially out of the Conscience of his Duty; because that every good man is to prefer the publick above all private interests; I say in the third place, That a Subject, unlesse some remarkable necessity doth appear, or fear of publick danger, is ordinarily not obliged to obey a Law that is so extremely burthensome as to bring with it the certain ruine of his whole Estate, or the imminent danger of his life; But he is bound, as generally hath been already spoken, (and which almost in all cases I would have you to observe, that we may need not any more to repeat it to you,) to make not the least resistance, but patiently to endure whatsoever injury or contumely shall be brought upon him by the superiour powers.

IX. The third doubt, is concerning things necessary, as if the Law of men should command any thing which was necessary before, and commanded by the Law of God, or forbid any thing which was before unlawful and prohibited by the Law of God; What is the obligation in this case? I answer briefly, That the Subject by this Law is absolutely obliged; For first, the obligation which was in force before the Law of God doth not hinder the effect of the Law of man by excluding a new obligation, for a man by many bonds may be obliged to the performance of one and the same duty, as I have already declared in the former Lecture; to which reason we may also adde another, which is that oftentimes the Law of man doth adde something to the Law of God, to wit, by determining the Act, as to the substance of it commanded by  
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the Law of God, and therefore necessary, as to the *manner*, *quantity* or some other *circumstance* of it which was free before, or by adding some determination to the Law of God prohibiting a thing unlawfull, as to the *degree* of the *Crime*, or the *manner of the punishment*, or the *measure* of it, or other things of the like nature; for examples sake, it is by Divine right that there should be publick congregations to perform the duties of Divine worship, but at what hour the people shall meet, and in what place, what form of words are to be used, and what must be the gesture of the body the several parts of the service, and other things of the same nature, are all of them to be determined by Humane constitutions. In the same manner, the Law of God forbiddeth Theft to be committed, but what kind of Theft is to be animadverted against with such a punishment, and what with another punishment, is from the Laws of man; From this determination of a *general thing* and undetermined by the Law of God, the Law of man hath this privilege, that it can induce a new obligation on the Conscience of the Subject, not only different from the first obligation in *number*, and in respect of the *Term*, because it is of another dependency, but also diverse in the *Species*, and in respect of the matter, because it is exercised on another *object*; for the first obligation, which ariseth from the Law of God is to the thing it self as it is a *substance*, but this obligation which the Lawes of men do super-induce, is to the *manner* of the thing or to the *circumstance* of it.

X. The fourth *Doubt*, is of a thing that is foul and unlawful, which is indeed a Doubt of great moment,

moment, and containeth many cases : for almost all the Conditions which are required to the right Constitution of Lawes, are reduced to Justice alone ; (a) *πάσις* And not only for that reason that *universal Justice* *πᾶσι νόμιμα*, *ἵσι* doth in her Circle comprehend all Vertues, but especially for this reason, that *particular Justice*, and more specifically that Justice which is called *Legal Justice*, is above all other Vertues the *chief and the* *νόμιμα. Α-* *ρίστορ. 5.* *ἠθικ. 3* *only Pillar* of Common-wealths and all humane Societies. Concerning this *Doubt*, In the first place it is questioned, Whether an unjust Law ought to be made for the publick profit ; Of which opinion was *Nicho. Machiavel*, who affirmed, that the due matter of Laws, whether just, or unjust, was that which was most commodious for the preserving & the encreasing of a politick State ; for when, in his opinion, the end of Civil Power is the preservation of it self, and the encrease of Sovereignty, which Power cannot vigorously be preserved, much less the Sovereignty enlarged, if all the Lawes, and Councils of Princes were examined according to the exact Rule of Justice, and Honesty, It concerned those who sate at the Helm, so to bend (as occasion should require) the *Rule of Honesty*, as to make it subservient to the publick advantage ; for the end in all things is to know how best to measure those things that are of a *middle nature* ; what so ever was the opinion of *Machiavel*, this was certainly the Judgment of a personage of great account amongst the *Lacedemonians*, who openly pronounced, that was most honest to the Spartans which was most profitable to them ; To confirm this opinion that of *Horace* is alleged, *Ipsa utilitas* *justi prope mater et agni* : Profit almost the very mo- *Hor. 1. c. 2.* *ther 17. 3.*



ther of Justice and Equity; And how thriving a Principle this is, may be proved by the Example and successe of the Turks, who relying on this Foundation, most happily have far and near extended the bounds of their Empire throughout *Asia*, *Africa*, and *Europe*. And to speak the truth, had not some men ( who above all others do professe themselves to be Christians, nay the only Christians, and delight to be called the Reformers, and the Restorers of the purer Religion ) made a great use of this most wicked principle, the Christian World had not every where groaned under To many Sacrileges, Perjuries, Seditions, Warrs, Tumults, and Tyrannies.

XI. But on the other side; Princes on earth ought not to abuse that power which they have received from God, against his will, or otherwise than he intended, for this power is not given them so much as to Lords, as it is intrusted to them by God as his Ministers, *Λειτουργοὶ θεοῦ, & δίκαιοι, Rom. 13. 4, 6.* It is intrusted to them upon that account, that they should work righteousness, and not exercise Tyranny, and an unjust Domination: And this is manifest by the very words of the Text; *By me Kings Reign, and Princes decree just things;* As if to Reign, and truly to be a Prince, were nothing else but to decree those things which are just and righteous; And the Prophets do every where denounce the most severe anger, and vengeance of God against those Kings & Princes who had decreed unjust Judgements, and had meditated inquiry as a Law: Neither is the enlargement of Empire, the end of Civil Power, as the Politicians of this world do affirm, but the preservation of the people

Esaï. 10.

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Psal. 94.

20.

ple in Tranquillity, and peace, withall Godlineſſe and Honesty, 1 *Tim.* 2. 2. For Justice ( if there be any other) is the best preserver of the publick peace; And as the Righteousness of Faith doth procure and conserve the inward peace of the Conscience, so legal Justice doth preserve the outward peace of *Eſai.* 32. the Common-wealth, *the fruit of Justice*, saith the 17. Prophet, *shall be Peace*, and the *Theban* Poet, cal- *Pindar*. leth Quietnesse the Daughter of Justice; Neither is that the meaning of *Horace*, as if Honesty were meerly to be measured by profit, the scope of his sense is far otherwise, to wit, that men wild at first, and wandring, by the observation of the publick profit, and the common good, were brought at the last to draw together into one Body, and maintain Societies, and by just Laws and Punishments to restrain injuries, and wickednesse. The Arguments drawn from the Turks ( whom it appears that God especially had raised up, and made them as his Scourge to correct the great perfidiousnesse, and other Sins of the Christians ) or from any others, to maintain a bad Cause by the prosperous successe that did attend it, do favour rather of the *Alcoran* of some abominable miscreant, than of the Purity of the Gospel of our Saviour Christ.

XII. The second Question is, Whether an unjust Law ( though it ought not to be made, yet being made ) may oblige the Conscience of the Subject so far, as to be bound to observe it? For many things there are which ought not to be done, yet being done are valid; And it may so come to passe, that what could not without sin be commanded, yet without sin may be performed, as abundantly we have confirmed in our fore-going

Lectures. The reason of this doubt is, Because that true obedience is no Disputesse; for the practice of obedience doth properly consist in this, to subject ones self to the will of another without the least murmur or dispute; *Nimis delicata est obedientia*, saith Bernard, *que transit in genus causa deliberativum*; That Obedience is too delicate when it comes once to be so deliberate, as to inquire after the Cause thereof. But I answer briefly, the Conscience of the Subject is not bound by that Law; It was my first Conclusion in the former Lecture, and confirmed by many Arguments, and if any man be yet unsatisfied, it may be further proved; For no inferior power can oblige against the will of the superior power; therefore the power of God being above all the power of Men, there is no power of any man whatsoever that can oblige against the will of God, who by his Law hath forbidden all wicked and filthy things; from whence is that of Saint Augustin, *There can be seen no Law which is not just*; And by this reason, the Argument drawn from that of obedience is answered, by granting that the Subject ought to submit himself without dispute to the will of his Superior, to wit, the supreme superior, into whose will, all obedience is ultimately resolved; and not of the subordinate Superior, if it appeareth that his will is averse to the supreme superior; Now, God is absolutely the chief Commander, the bare signification of whose will is sufficient to induce an obligation of Obedience, especially since it is most certain, that his will cannot be unjust; Therefore Abraham obeyed God commanding those things, which if God himself had not given him the charge, might seem not only to be

*Quod jubet homo, prohibet Deus: Ego audiam hominem, servus Dei?*  
Bernard.  
Epist. 7.

be hard, and unjust, but impious and full of wickedness; To wit, that his Father, his Country and kindred, being all abandoned, he should become a poor banished Man, and travel into a remote, and an unknown Country, nay, that with his own hand he should cut the throat of his own Son, in whom alone was not only all the Comfort, and the Succour of his Age, but all the Hope of the Promises of God, and that he should lay him on the Altar, and offer him as a Sacrifice to that God who commanded of him such cruel things. He did rightly indeed, and as it became a man who deserved to be called the *Father of the Faithful*, and to be the singular Example of an unshaken Faith to all the world; without the least hesitation and with a most willing obedience he made himself ready to put in Execution the Commands of God; But as for the Commandments of men, seeing that every man is lyable to Error, and sin, and *his Will* may be depraved, it is very lawful, nay where there is a just Cause of suspicion, it is needful also, to examine and to try them. That admonition of the Apostle, *1 Thess. 5. 2. Try all things, and keep that which is good*, may with great right and as fitly be applyed to the commands of the Superiors, as to the Instructions of Teachers, of whom notwithstanding *St. Paul* in that place doth especially speak. Away then with the haughtiness and proud commands of over-lording Spirits; *sic volo, sic jubeo; This will I have, This I do command*; Away with the base flattery of the Papiſts, who think it a sin for any man in any manner whatsoever, to suspect the Dictates of their Lateran *Jove*: Away with their blind obedience, by which those that enter into their Religi-



ous Houses do by a vow oblige themselves to obey their Superiors in every thing, and in all things without distinction.

XIII. In the third place it is propounded; Whether it be Lawful for a Subject to depart from his own right, and although he be not obliged, yet of his own accord to obey such an evil Law? I answer, it is not lawful; for the law of God doth simply oblige to the not doing of any thing that is evil, or unlawful; Therefore an unjust Law (I understand *unjust* in that sense in which we now speak, as unjust in relation to the matter) cannot lawfully be kept, because God cannot lawfully be offended; For whatsoever is repugnant to the Law of God, or to the light of Nature known and written in our hearts, or revealed in the written word, is not to be admitted by a Christian, either to avoyd any particular detriment; whatsoever, or the scandal of our Neighbours, or to promote the favour, or to decline the hatred of our Superiors; *Da veniam Imperatori, tu Carcerem, ille Gehennam,* were the words of the primitive Christians, *Excuse us Emperor, you can only condemn us to prison, but God unto Hell.* And so before them, said the Apostles of our Lord Jesus Christ, *Whether it be right in the sight of God, to hearken unto you rather than unto God, judge yee;* And before them, the three young men of the Hebrews in the third of Dan. 3. Daniel; *Be it known unto thee O King, that we will not serve thy Gods, nor worship the Golden Image which thou hast set up.*

XIV. In the fourth place, it is demanded, What Law is to be thought so unjust, that it is not only not obliging, but moreover it is unlawful to obey it?

it? I answer, a Law may be said to be unjust for manifold considerations; First if it be made by one who is not invested with a lawful power, and so it is unjust *Propter defectum Justitiæ Commutativæ*, for the defect of Justice commutative, because the Lawgiver assumeth more than is due or by right doth belong unto him, it doth not therefore oblige the Subject to obedience, nevertheless the Subject if it seems expedient to him, and he be not otherwise hindred, may depart from his own right, and obey that Law. Secondly in consideration of the *Final cause*, if it doth not tend to the publick good, nor preserve the rights due unto the Commonalty; And this Law is unjust by reason of the defect of that Justice which they call *Legal*, which alwayes intendeth the common good, and that the republick may receive no detriment; But this Law, howsoever it be unjust, doth notwithstanding oblige the Subject, for the Subject is no competent nor fit Judge of *Legal Justice*, and if by his obedience any thing doth follow which is either incommodious, or noxious to the Commonwealth, it is not to be imputed to him, who performed his part well enough, but to the Supreme Magistrate, whose duty it was to provide for the preservation and advancement of the publick good. Thirdly in consideration of the *Formal Cause*, if the Law by an unequal proportion, and not by merit of the Citizens, doth dispende and distribute Burdens and Favors, Punishments and Rewards, This Law is unjust by reason of the defect of *Justice distributive*, which commandeth to give all things by equity to every one, as every one hath deserved; And this Law, howsoever it be un-

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(a) Οὐτὶς  
ἐμὲ ὅ-  
τις  
ἀλλ' Ἀ-  
γαμέμ-  
νων, ὅς  
ἐσσι πρὸς  
τῇ. Ἡ-  
μερ. Ἰλι-  
αδ. α.

3.

just, doth notwithstanding oblige, as well as that, of which but now I spoke of, and for the same Cause; for the dispensation of these things doth not belong to the office of a Subject, but of the Supreme Magistrate. Fourthly, in consideration of the *material Cause*, of which we do now discourse; if the Law doth command any thing that is base, dishonest, or any wayes unlawful, the said Law is unjust, for the defect of that Justice which is called *Universal*, which requireth a due rectitude in every Action; And this alone is so far from obliging the Subject to obedience, that it doth altogether oblige him to render no obedience to it.

XV. It is demanded in the fifth place, What Justice is required, and how much of it will suffice as to this, that a Law may be said to be just, and esteemed obligatory? For answer, I say in the first place, It is not necessarily required, that what by the Law is commanded, should be *just positively*, which the Philosophers call *Honest*, that is, that it may be an Act of some Virtue, but it doth suffice, if it be *just negatively*, that is, if it be not unjust, or shameful, as are the Acts of all Vices; Otherwise there could no Laws be made of things of a middle nature, or of things indifferent, which notwithstanding (as by and by shall be manifest) are the most apt matter of Laws. I say in the second place, Grant that some Law be unjust, in regard of the *Cause efficient*, or the *final*, or the *formal Cause*, in any of those respects newly mentioned, yet if there be no defect of Justice in respect of the *material Cause*, that is, If by the force & power of the Law the Act to be performed by the Subject be such that he may put it in Execution without

out any sin of his own, that Justice of it is sufficient to induce the obligation.

XXVI. But lest the Subject ( too licentiously to withdraw himself from the yoke of the Law ) should give some pretence for his disobedience ( as it is a wonder to see how many men do suffer themselves to be deceived by this paralogism ) and should allege that the Law doth seem too unjust unto him, and which with a good Conscience he cannot obey, & therefore ought not to obey, for this they say were to obey with a doubting Conscience, which cannot be without Sin, as the Apostle teacheth *Rom. 14. 23. For whatsoever is not of Faith, is Sin*; It is necessary therefore in the sixth place, to inquire farther, and to demand, What certainty is required to know whether any Law be unjust or not, that so a Subject may be secure in his Conscience whether he be bound or not bound to the observation of it. I answer in the first place; If the Law be manifestly, & notoriously unjust, it is certain that the Subject is not bound to the observation of it, which is also to be affirmed, if by any *moral certainty* (after some due diligence in searching out the Truth) he judgeth it to be simply unjust. I say in the second place; If out of any confirmed Error of his Judgement, which it is not easy for him to leave, he thinks the Law to be unjust, when indeed it is not, yet for all that Error in his mind, the obligation of the Law doth still remain, insomuch that he is guilty of Sin, if he doth not obey it; but should Sin more grievously, if that Error not yet left off, he should obey it; Of this *Case* we shall have a greater opportunity to speak, when ( if God shall permit ) we shall come to the Comparison of both the sorts of obligations.



3. ons. I say in the third place ; If out of some light *doubt* or scruple he suspects it may be so , that the Law is unjust, that scruple is to be contemned, & the Law altogether to be obeyed, And no man under the pretence of his tender Conscience, is to excuse himself from the necessity of giving obedience to it.

4. XVII. I say in the fourth place ( And I would to God that those whose Custom it is to defend their grosse disobedience under the pretence of their tender Consciences , would give due attention to it ) If because of some probable Reasons appearing on both sides , the Subject cannot easily determine with himself whether the Law be right or not , insomuch that his mind is in a great uncertainty , and knows not which way to incline , he is bound in this case, *actually* to obey it, so that he sinneth if he obeyeth it not , and doth not sin if he obeyeth it. My reason is; First, Because by the Rule

1. of *Equity*, *In dubiis potior est conditio possidentis*, *In doubtful things the Condition of the Possessor is the better*. Therefore when there is a Case at Law betwixt the Law-maker, and the Citizen, unless there be some apparent reason to the contrary, it is presumed alwayes to be on the side of the Law-maker against the Citizen, as being in the *Possession of Right* ; But if there appears any sound reason to the contrary, the Case is altered, because it is against the supposition of Reason; for we then suppose that they contend in Law, one having as much Right as the other. The second Reason ariseth from another Rule of Law ; *In re dubia tutior pars est eligenda*, *In a doubtful Case, the safer part is to be chosen*; And its safer to obey the Conscience doubting, than the Conscience doubting not to obey; Because

it is safer, in the honor due unto Superiors, to exceed in the mode that is due unto them, than to be defective in it. The third Reason proceedeth from the same Rule; for generally it is safer for a Man to suppose himself to be obliged, when he is free, than to suppose himself free, when he is indeed obliged; For seeing by the inbred depravation of the Heart of Man, we sin oftner by too much Boldness, than by too much Fear, and are more prone than it becomes us, to the licentiousness of the Flesh, and lesse patient to bear the burthen, unlesse we were throughly before hand resolved to obey those Laws which are not apparently unjust, the *Wisdom of the flesh*, & the *Craft of the old Serpent*, would suggest unto us excuses enough which would retard and hinder us from the performance of our Duties. And so much of the fourth doubt.

XVIII. The fifth followeth; *Of the permissive Law of Evil*; Whether it be lawful, and how far lawful? And whether it be obligatory, and how far obliging? Where in the first place we are to observe; That an evil thing may three wayes be admitted by the Law, that is to say, *privatively, negatively, and positively*. Privatively to be permitted is the very same, which is *pretermitted* by the Lawgiver; And in this sense all those things are permitted, concerning the forbidding of which, or the Punishing of which, the Laws do determine nothing. That negatively is permitted, the exercise whereof the Lawes do define and limit with certain bounds, within which those are safe and without fault, who do contain themselves, but those who do exceed them, are to be punished by the Law; And in this sense, the Laws of most Nations do per.

3. permit of *usury*. Thirdly, that is permitted positively, the exercise whereof is tolerated under a certain pay of some Tribute; and thus houses of Incontinence are permitted at *Rome*.

XIX. This distinction being premised; In the first place I affirm, That *privatively* many Evils are necessarily tolerated in all Common-wealths; for it is impossible that the Laws should extend themselves to all the Species and kinds of vicious Acts, or that all kind of Sin should be restrained by humane Laws; *The Law of God* hath this only which is admirable and peculiar to it self, that it alone commandeth all things that are to be done, and forbiddeth all things that are to be avoyded. Now in this permission there is no place for obligation, for it is necessary that every obligation should arise from some *Act*, and not by the *privation of an Act*, or a *Non-Act*. I say in the second place, That the negative permission of evil may be lawful; For if there be some evils that cannot be quite taken away without some great Inconvenience to the publick, it pertaineth to the *political prudence* of Government, so to moderate the use of it, and circumscribe it within certain bounds, as to make it subservient to the Publick profit; And this by the Example of God himself, who permitted the Divorce of Wives to the people of *Israel*, to that purpose, as Christ the most excellent Interpreter *Mat. 19.* of the Law expounds it, *Lest by the hardnesse of their hearts, and the unbridled roughnesse and cruelty of Husbands to their Wives, there should arise more grievous inconveniences.* I say in the third place; That by this Law, there is no man notwithstanding obliged to perform that which this Law

*Concerning the matter of Humane Laws.*

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Law permitteth, for the end of permission is, not that that be done which by this Law is permitted, but that nothing be done beyond that which the said Laws permit. Therefore as the permission it self is only *negative*, so it induceth only a negative obligation; That is, the Subject is obliged to do if he pleaseth what the Law permitteth, and not to exceed the bounds which that Law prescribeth. I say in the fourth place, That the positive permission of Evil is not lawful, if there be more, or more grievous Evils which follow that permission, than those are for the remedy whereof it was pretended; especially if to the permission and imposition of a filthy thing, there is added a suspicion of filthy lucre. I say in the fifth place, That by such a Law, no man is bound to the performance of that which is permitted; nay for all the permission of that Law, every man is obliged to a non-performance; My Reason is, as to the former part; Because it is against the Nature of a *permission* to oblige, for a permission granteth Liberty; and every obligation is a kind of a Bond. As to the latter part, Because we suppose that what by the Law of man is so permitted, is of it self evil, and by the Law of God, we are obliged not to do Evil; The permission therefore of Evil, as it is a bare permission, doth oblige no man to the performance, but as it is the permission of Evil, it doth oblige every man not to do that which is permitted.

XX. But it hath often heretofore been spoken, that every Law hath a power obligative, which so individually doth accompany it, as but to grant the Law, the obligation must necessarily follow;  
and



- and take away the obligation you take away also the Law with it; It may therefore be objected, that we must hereupon either deny the permissive Law to be a Law, or acknowledge it doth oblige. To answer to this objection, we need not fly so far as to deny the *Law permissive* to be a Law, which we do acknowledge not only to be a Law, but a Law properly so called; Certainly that Mosaiical Law of Divorce mentioned *Mar. 19.* Though it comes by name of permission, *Matt. 19. 6.* in the eighth verse, yet in the seventh verse of the same Chapter it is called a *command*, *Matt. 19. 17.* What, & is not the very name of a Law every where given to it, & is not the Definition of that name as congruous to it as to a *Law* either *commanding* or *forbidding* something to be done, so that it cannot be denied but that the Law is predicated of them all *univocally* and as a *Genus* in reference to its *Species*? is it not then to be granted, that the Subject by this Law is obliged; I do so conceive it altogether to be granted; which that it may more rightly be understood to be not incoherent with those things which have been already spoken of a *permissive Law*, I say in the sixth place,
6. That every Law permissive, as it is a Law, doth oblige the Subject in his Conscience to the observation of it. The reason is manifest; for an obligation (as often it hath been already spoken) is a necessary effect of the Law, and not to be severed from it; Which that it may not seem to be quite contrary to what now hath been delivered, these two things are to be observed, which therefore the more remarkably I shall give unto you; The
1. first, that I said the permissive Law doth oblige to the

the observation of it; Now it is one thing that the Subject is obliged to the observation of the Law, which I still affirm, and another thing that the Subject is obliged to do that which the Law permitterth, which I have before denied, and do deny it still. The second, that I said the permissive Law as a Law doth oblige, which is true, but I did not say it did oblige, as it was permissive, for that is false; because we are to know, that the force of a permissive Law, as it is a Law, doth not consist in the permission it self, which being *differentia divisiva*, but a *divisive difference* of the Law, it must needs come in order after it, as every *difference divisiva* is by nature in a posterior place to the *Genus* which doth divide it and presuppose it, but is for the most part expressly or at least virtually contained in that *preception* which is as it were the *constitutive* and *formal* difference of the Law, and in the very words of the Law it self; For this preception is that from whence the obligation of the Subject doth first arise, and to which his obedience is ultimately terminated; I will make it manifest unto you by example. By reason of the necessity of borrowing of money, the maker of the Law permitterth of Usury in a moderate proportion amongst the Citizens, a punishment being denounced to those who shall exceed by taking more use than the Law allowes. I will not here define whether Usury be simply, and in every kind of it, unlawful or not, neither doth it belong to my present purpose, nevertheless this is certain, that were it never so lawful, no man by that permission is obliged to the exercising of it, But in this Law besides this permission which obliges so man, there are two things which belonging to the

the Precept of the Law, have thereupon from the Intention of the Law-giver a force of obliging the Citizens to the observation of them; One whereof is enjoined formally and in exprefs words, to wit, That no man exact monies beyond the allowance prescribed in the Law, the other virtually and by Consequence, That no man be punished for trading in usury as it is by that Law permitted; To conclude therefore in a word, the Precept or Injunction of the permissive Law doth oblige all Subjects, but the Permission no man.

XXII. The *sixth doubt* is of things indifferent, and of a middle nature; Now these things indifferent, or of a middle nature are such, all the *Species* whereof are neither commanded nor forbidden by any Divine Law, (natural, or positive.) They are therefore of themselves, and of their own nature, lawfull to be observed as they are not forbidden, and free to be observed as they are not commanded. There were some of an opinion that there ought no Laws of man to be made concerning things indifferent, but of those things only which are of a natural, or a divine right, and thereupon they said, That Civil Laws were not so much the Constitutives of a new Law, as the Declaratives of the old, and explications and evolutions of the Divine will; But what need we to confute an opinion so abhorring from all sound reason, that rather to the contrary we may rightly judge, that *these things indifferent* are the most proper and the only most fit matter of Humane Laws? For we are bound to the observation of those things which God hath commanded, although the commands of all men whatsoever, are either silent, or do contradict them; And as for those things

things which by God are forbidden, we are obliged to the not performance of them, the Laws of men being silent, or never so importunately commanding them. Therefore *these things indifferent* do remain, as a large Field in which the power of man might exercise it self, and put forth its force by inducing an obligation where there was none before. That manifestly it may appear that the civil Magistrate in things *indifferent*, and which before any Act of his were *free to both*, may state and decree something on either side, by determining that indifferency, which may oblige the Consciences of his Subjects to obedience; For as in Meat and Drink, and Pleasures, as also in *giving and receiving*, the *moral prudence* of a private person, by allowing unto himself a golden mediocrity, doth so far advance his natural and indifferent Acts beyond their state and native Condition, that from thence they begin to be Acts of Vertues, to wit, of *Temperance*, and *Liberality*; so a person invested with the publick Authority doth by his politicke prudence in giving certain bonds of mediocrity to his Subjects concerning things free, and of a middle nature, so advance those Acts enjoyed in his Laws beyond the degree of their former State, that they now begin to be Acts of virtues, to wit, of *Obedience* and *Legal justice*.

XXIII. A thing most plain, and which would have found no Adversary, if so manifest a truth had not prestinged some Reformers of our age, nay, and of our own Nation, who to make a way to that wild Reformation for which they so much contended, had rather against common sence to take away from the world all indifferency, than



to grant unto the Magistrate any power of determining of *Rites & Laws*. Altogether like that Macedonian who with his Sword did cut that Gordian knot asunder, which by no Art he was able to untie; In this, as in many other things the true Disciples of the old Stoicks, who asserted that there was nothing indifferent to a wise man, but that he manageth all things from the greatest to the least, & even to the paring of his nayles, with the highest point of discretion; But they so took away this *indifferency out of affairs* with words only, that at last being enforced to it by the reasons of their adversaries, they *in deeds* did grant it, having invented some frivolous distinctions, more honestly to hide their error, than they might not seem to have erred at all. But there have been found some amongst us, who have been so bold as to defend their odious, & exploded Doctrine in their publick writings, & that more pertinaciously than the Stoicks themselves did heretofore. Two especially, the one of them a *Divine*, a man of some account amongst those of his own party, the other a *Lay-man*, & one of the Peers of the Land, both of them now dead, with whom, because I believe their Doctrine to be dead also, and not easily to be received into the belief of sober men, much lesse to find a patron amongst them, I think it not worth my labour to insist on the confutation of it.

XXIV. I do receive therefore as granted, that there are *things* and *actions indifferent*, at least in their own nature, and in the Species of them which I believe there is no man so Stoicized that will deny; Of which in reference to our present purpose, is next to be advertised, that an Act indifferent in its own nature, that is, in respect of the matter

or the object of it, if it be commanded by the Law, from good and lawful, doth become honest and necessary, and if it be forbidden by the Law, from good and lawful, it becomes evil, and unlawful; which comes not to passe by reason of any change made of the thing it self, (which whether it be commanded or forbidden, both physically, and morally doth remain the same as it was before, for there is no respect that alters nature) but proceedeth from that obligation which the Law induceth; From whence it is, that being before, both in nature and of it self, so also in use and as to us, free unto both, the authority of the Law being added to it, it becomes in the use of it, and as to us, no longer free, but it is either necessary, or unlawful according to the exigence of the Law.

XXV. If it be demanded, seeing the Law appeareth to have an equal power on either side, how comes it to passe, that the Law by forbidding an Act, can make it of being good and lawful, to become evil, and unlawful, but the same Law, (as heretofore we have denyed it) cannot by commanding an Act, make it from being evil & unlawful, become good, and lawful; I answer, the reason of the difference is most manifest, from that most known *Axiome*, *Bonum ex causâ integrâ, malum ex quolibet defectu*; An Act therefore that is evil in its own Species, and in the respect of the object of it, must of necessity be always evil, neither in any exercising of it, be the circumstances what they will, may it be made good, by reason of the defect of goodness in the part of the object, which defect is sufficient to corrupt the whole Act; But an Act, good in its own kind, or at least not evil, if it be at-

tended but with some one circumstance that is indirect, it becometh wholly vicious, by reason of the defect of a due rectitude in that circumstance; From whence ariseth another difference betwixt an affirmative, and a negative Humane Law, or a Law commanding, or forbidding; For a Law affirmative doth not give any *goodness* to the A& which it commandeth, if it be otherwise evil in any part of it; But a Law negative doth contribute *evilnesse* to the A& which it forbiddeth, although it be otherwise good in every part of it; Or, which is the same again, a Humane *Precept affirmative* doth make that necessary which it finds to be good, a humane precept *negative* doth make that unlawful which it found to be good, both of them what they found evil do leave it to be evil as they found it; Notwithstanding both do oblige in their manner and as to us, *this*, to the doing of that which by commanding is now made necessary, and *that* to the not doing of that which by forbidding is now made unlawful.

XXVI. The seventh Doubt remaineth of Ecclesiastical Lawes in *Special*. By Lawes Ecclesiastical I do not understand those Lawes which are constituted by Ecclesiastical Persons without the Authority of the Civil Magistrate, (which consideration pertains not to this case, but to a Cause of an other kind, to wit, the Cause efficient) but those which, being made by any lawful Power, doe treat of Ecclesiastical things, for at this present we dispute only of the *material Cause*. I have never heard of any besides those two above named who denyed all Indifferency, or who would not grant to the political Magistrate some Power in things indifferent, merely

meerly political ; But we meet every where with a great number of Innovators, who would take from men all Power of making Rites and Ceremonies in the publick worship of God, besides those which are prescribed by Christ and his Disciples in the Gospel ; But sincerely I professe, that to give satisfaction to my self and to others in this particular, Having perused many Books written by many Authors, but especially of our own Nation, concerning this Subject, I find not any one, that can produce any just or any likely Reason of *Difference*, why there may not be a *Power* of ordaining and determinating concerning things indifferent, as well in Cases Ecclesiastical as Political ; For the Arguments which are urged from *Scandal* and *Christian Liberty* and other common Places of the same Nature doe equally fight against the *Laws*, and *Constitutions* of both Kinds, and do overthrow them both, or neither of them. Those which are thought to carry a peculiar force against Ecclesiastical Laws and Rites are four, which as the time will permit, I will briefly, and orderly examine, they are derived  
 1. *From Christ the Lawgiver*; 2. *From the perfection of the Scripture*; 3. *From the nature of holy Worship*; 4. *From the example of the antient Church*.

XXVII. In the first place they object that of the Apostle *James*, 4. 12. *There is one Lawgiver who can save and destroy* ; In the reign of *Elizabeth* many who were the *Coriphei* of that Disciplinary Faction did make very much of this argument as the foundation of their whole Cause ; They alleged that Christ was the only Prince, and Legislator of his Church ; And the Laws which he made did oblige the Church to a perpetual observation of them



them, and that no other Laws ought to be admitted, nor any other Legislator acknowledged; who-soever shall presume to make any other Lawes besides those which Christ made, shall act the part of Anti-Christ, and declare himself a rash Invader into the Office of Christ. We have discoursed on this place, and expounded it already as occasion did require, especially where it was to be proved, that God only and his Christ did exercise an absolute and a direct Command on the Consciences of Men; But that this hath no greater a place in Lawes politick, than in Ecclesiastick, he must needs be blind that doth not observe it. For why can the obligation of humane Laws in civil things consist with the legislative Power of Christ alone, and why cannot there be the same consistence in Lawes Ecclesiastical? Who can discover or produce the least shadow of any difference from that Text. Be Christ the Law-giver of the Christian Church, Is he not as well the Law-giver of the Christian Common-wealth? But the Apostle in that place made not the least mention of the Church, nor instituted the least disputation concerning things Ecclesiastical, neither doth he treat there at all, of Political Lawes or Rites but of the Censures of Private Men. He would have the faithful admonish'd to be mindful of Christian Charity, and that they should forbear from passing a rash Judgment on their Brothers, for God was only the Judge of Consciences, who alone made that Law by which every man in the last Day shall be judged. This is the true scope of that place, This is the mind of the Apostle. What is here I pray you, that tendeth to the condemning of Humane Lawes? or if

is to the condemning of them, why of Ecclesiastical Lawes, more than Civil? Neither of which, either the one, or the other, are asserted by us, by themselves, and of their own Vertue to oblige the Conscience.

XXVIII. In the second place they object the Perfection of the Holy Scripture. This they say is the Rule both of Life, and Manners, and which can make a man of God wise to every good work, to which if any man shall adde any thing of his own, he shall commit a most remarkable trespass against God, and pull most heavy punishments on himself. All this is most certain: But if the Scripture in all considerations be the absolute rule of our lives, & of all things whatsoever to be done, and (if we may believe these Stoicks) it extends to the slightest things, insomuch that it is not lawful to take up a straw, unless it be by the prescribed word of God, will it not suffice as well for the regulating of things Civil as Ecclesiastical? or how can the Laws of the Church derogate more from the perfection of the Scripture, than the Laws of the Commonwealth? or who is he who rightly can say that he hath added something to the word of God, who for Honesty and Orders sake, did make the Ecclesiastical Laws, seeing he propounded not his Laws unto the people as the word of God, and God in his word hath commanded that all things in the Church shall be done *honestly* and in *order*?

XXIX. In the third place they object the Nature of worship, to wit, that the worship of God is a thing sacrè, in which worship all things are to be done by the Command of God, and all Humane inventions are to be driven far away as su-

persticious, nay plainly Idolatrous, and traditi-  
nary *Rites*; Indeed the worship of God is a sa-  
cred thing, neither is it lawful for man to institute  
any other worship besides that which God hath or-  
dained; But because there is an Ambiguity in the  
word, we are to distinguish of the worship of  
God, which is taken in a threefold consideration;

1. And first of all, the worship of God properly is  
called, and the chiefest, is that inward worship  
of the mind, which consisteth in the exercise of  
inward Verrues, as of *Faith, Hope, Love, Invoca-*
2. *tion, Confidence, &c.* Secondly, those out-  
ward Acts by which that inward worship of the  
mind is partly expressed, and partly helped, and  
fostered, such as are *publick Prayers, Singing of*  
*Psalms, the Hearing of the word, and the partici-*  
*pation of the Sacraments, &c.* may reducibly,  
and lesse properly be called, and oftentimes are  
called the *worship of God*, as they are the outward  
Testimonies and Helps of that worship which so  
properly is called. Thirdly, Seeing it is impossible  
that any outward action, especially if it be a solemn  
one, should be performed without some Circum-  
stances, either more, or lesse, of *Time, Place, and*  
*Gesture*, from whence it comes to passe, that the  
very same Circumstances ( which if established by  
*Laws or Customes*, are called also *Rites* ) do some-  
times receive the appellation of worship, although  
very improperly, and only for that Concomitancy  
which they have to that outward worship, which  
it self also is improperly called a worship. It is  
therefore to be affirmed, That the *inward primary*  
*worship*, & properly so called, doth only so acknow-  
ledge God to be the only Author of it, that it is

not lawfull for any man either to institute a new worship, or being instituted by God, to exhibit it to any other besides God himself. We are to affirm also, That the outward worship, according to its *substantials*, is instituted only by God; but there is a far different account to be made of the circumstances which are necessary to this outward worship, and those which do accompany it. If there be any who will Honor them also with the Name of worship. For seeing that the outward worship of God cannot be performed without Circumstances, and God in the Gospel hath not given any certain particular Circumstances perpetually to be observed in sacred Assemblies, but only hath lay'd down some Generals as may conduce to Order, Honesty, and Edification, it must necessarily follow, that the Determination of the said Circumstances, which are but *Accidental* to the worship it self, and mutable according to the respect of Times, Places, and Occasions, must pertain unto those, who under Christ have a Right and Power of Governing the Churches, which that they may be imposed by those, who in the several Churches are invested with publick Authority, and being imposed, may Religiously be observed by all the Members of the said Churches; the nature of Holy worship doth not forbid, but Solemnity rather, & Decency doth require; We observe also, that even those Men themselves who so Lordly & bitterly do inveigh against the Canons, and Ecclesiastical Constitutions, yet as often as they please, do use those Rites in the outward worship of God no where prescribed by Christ or his Apostles, as the lifting up of their hands in the taking of an Oath, the uncovering



covering of the Head in the Holy Conventions; and many other things, which because we dayly observe to be done, it is unnecessary to rehearse them.

XXX. In the fourth place they object, that *Moses*, the pattern of the old, that is, of the Jewish Church, who was given by God to the people of the Jews to be their Lawgiver, did not only by his Law define the *Substantials* of the Jewish worship, but according to that fidelity which was in him, he omitted not the least Circumstances, and in building the Tabernacle which was to be a Type of the Christian Church, he most completely and perfectly finished all things according to the *Idea* of the Example which was propounded to him in the Mount; And now if Christ the Lawgiver of the new Testament should not have prescribed all things, and every thing even to the least Circumstances which are to be performed in the Ecclesiastical worship, it may justly be believed (to suspect which is near to Blasphemy) that he was lesse faithful in the House of God than *Moses*, and thereupon there is a remarkable injury and contumely done unto Christ, if any new Rites never instituted by him should by humane Authority be brought into the Church, or be received by the Christian common people. But they who do object these things, ought in the first place to have considered that by this Argument, all humane political Laws are no lesse everted than Ecclesiastical, for *Moses* by the commandment of God did give unto the people of *Israel*, a certain, and a defined Law, not only of those Rites which belonged to the worship of God, but also of those Decrees, and Judgments, which belonged to the Administration of Civil Government.

XXXI. In the second place, it is a wonder moreover, that they observed not that by this comparison of that fidelity which was in both Law-givers, *Moses* and *Christ*, that they could not more importunately have alleged any thing that could bring a greater dammage to their own Cause, or more strongly have confirmed ours; For, as from that, that *Moses* both in rituals and judicials did give many Laws unto the people of the Jews, we do truly collect it was the will of God, that the people of the Jews should be so restrained in their duties under that pedagogy, and *Mosaick* Discipline, as under a Yoak of servitude, so that very few things should be free unto them; so from that also, that *Christ* the most faithful Interpreter of his Fathers Will, did give unto the Christian Church but a very few Laws of Ceremonies, we do truly collect that it is the will of God, that the Magistrates, and Christian people, should be permitted in those things to their own Liberty, so that it is now free for any private Man of his own accord (no command, or prohibition of a superior intervening) to do as shall seem in his own Judgement to be most expedient, and to the several Churches, and their Governors, to prescribe those things which according to the condition of the time and place shall seem to them to be most subservient to Order, Honesty, Edification, and Peace.

XXXII. Moreover, Those who do make use of this Argument, ought in the third place to have considered, that under that Pedagogy of *Moses*, the Jews themselves had not all the Liberty of Rites in things pertaining to the worship of God so taken away, that it was not lawful for them by their own

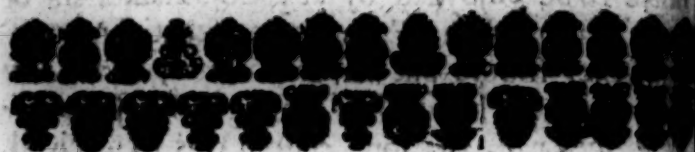
- own Authority, to observe and to institute those things, which it is manifest were never commanded either by God himself or by *Moses* his Servant. Of many take these few instances; First, the solemn feast of the Passover which by the Law of
1. *Moses* was commanded should be observed but seven dayes, was by a special Law of *Hezekiah* (who received a singular testimony of his piety from God himself) and by the consent of the people, continued seven dayes longer; The History is extant 2. *Chron.* 30. Secondly *Esther* and *Mon-*
  2. *decay* did institute that the feast of *Purim* should be yearly celebrated in memory of that Deliverance which God vouchsafed to the Nation of the Jewes under *Ahasuerus* King of the Persians, *Esther.* 9.
  3. Thirdly when *Moses* commanded but one day only in the year to be observed in the seventh month for a solemn Fast, the Kings and Magistrates of that people (for what causes it is not known, but likely in the remembrance of some remarkable Judgements of God) did by their own Authority institute annual solemn Fasts, insomuch, that in the dayes of the last of the Prophets, there were four solemn Fasts kept every year, viz, three others besides that of the seventh month, in the fourth, fifth, and tenth month, of all which mention is made, *Zach.* 8. 19. Fourthly, the Feast of the Dedication of the Altar, called *Encenia*, was instituted by the *Asamonians* without any command of God; The History is to be read 1. *Maccab.* 4. 59. And by the Judgement of the most and best Interpreters, Christ himself is thought not only to have approved of it, but to have honoured it with his presence, *Joh.* 10. 20. Fifthly, we find it no
  5. where

where to be enjoined by any Commandment of God, that in solemn *Fasts*, and penitential mourning, they should put on Sack-cloth, and strew Ashes on their hair, but amongst the Jews for some Ages past, the long custom was so received, and so obtained the force of a Law, that Christ himself did use that manner of Speech, as from the custom of that Nation, and showed not the least dislike of it; *Mat. 23. 5.* Sixthly, it is manifest by the writings of the *Rabbins*; that it was the manner also of the Jews before the supper of the Passover, that the Master of the Family should stoop so low, as to wash the feet of those of his own household, which although commanded by no Law of God, we find it to be observed by Christ, as it is manifest in the History of the Gospel, *John 13.* Why shall I here number up the Synagogues every where builded in so many Cities, and Towns, for the Conveniency of sacred Conventions, and many other things, a long Catalogue, whereof the Jewish Commentaries doe afford us; From all which this may be concluded, If so many things pertaining to the worship of God were lawful for the Jews to alter under that yoke of Severer Discipline, there can no probable Argument be derived from their Example to overthrow the force of Ecclesiastical Humane Laws.

6.

THE





THE

## SEVENTH LECTURE

Concerning the obligation of humane  
Laws, in relation to the Efficient Cause thereof.

PROV. 8. 15.

*Per me reges regnant, et Legum conditores  
justa decernunt.*

*By me, Kings reign, and the makers of Laws  
do decree just things.*



IN the last Term we did treat of the obligation of humane Laws, both in the *Generality* of them, to wit, that Laws rightly constituted do oblige the Consciences of the Subjects to obedience, so also in the *Species* as to those doubts which seemed properly to pertain to the material cause, to wit, how humane Laws do oblige them. First, we treated of things

things impossible; Secondly, of things possible but very burthensome; Thirdly, of things necessary; Fourthly, of things unlawfull and dishonest; Fifthly, of Evils to be permitted; Sixthly, of Things of a middle Nature, & indifferent in general; Seventhly, of Ecclesiastical Rites in Special; of all these things which have been spoken (that I may not appear too tedious in repetition) the Sum is this; That Subjects are obliged to obey just Laws, but they are not obliged to obey Laws that are unjust; And so *Solomon* in this Text requireth of the makers of Laws, that they do decree nothing but what is just. I must now proceed to prosecute those things which are yet remaining to be spoken of; In the handling of which I will use as much brevity as the subject will permit, that so in its due time I may finish the whole work, or at least so much of it as pertaineth to the obligation of Laws.

II. In the order of Causes (according to the method which I have elsewhere observed) the Efficient Cause doth follow next to the Material; And the Formal next to that, the Final Cause is the last of all, and doth both head the Rear, and shuts it up. Concerning the Efficient Cause of Laws, I have already sufficiently shewed, in the *third Conclusion of the fifth Lecture*, That humane Lawes do not oblige unless they are made by a person invested with a legitimate Authority. This in the first place is now remaining to be considered of, In whom is the just and lawful power of making of Laws, or who are those makers of Laws, to whom according to the mind of *Solomon*, The Right of discerning righteous things belongeth. To give a full Answer to this first doubt, which is the chiefest of all  
by

by farr in this kind of Cause, two things are to be supposed; In the first place, I suppose the legislative power, to be the power of a Superior, as to give a Command (in which appellation, I do also comprehend a *Prohibition*) which is a proper Act of the Law, to be the Act of a Superior. You are to observe, that in this consideration there is not a little difference betwixt these three; *A Promise*, *A Petition*, and *a Command*. Without the least distinction it is common to all *Superiors*, *Inferiors*, and *Equals*, to promise; For a Father may promise something to his Son, and the Son to the Father, and the Brother, or a Neighbour, to his Brother, or to his Neighbour; But to Crave, or to Petition, belongeth properly to *Inferiors*, and sometimes in some respect to *Equals*, As the Son beseecheth his Father, or the Neighbour his Neighbour, to excuse him, or to receive the acknowledgment of his thankfulness, but this belongeth not unto *Superiors*, unlesse it be very improperly, and by descending to a lower degree than their condition is; But it is so peculiar to *Superiors*, and of Men placed in a preheminance of Dignity to Command, that he would be altogether ridiculous whosoever he is, whether an *Equal* or an *Inferior*, that seriously should command his *Superior* or *Equal* to the performance of any thing; For every Act doth require a *Beginning proportionated to it*, And an *Equal* hath no Command on an *Equal*.

III. Now as to an obligation concerning these three, it is thus to be Stated; He who craveth one thing of another man, obligeth by that petition, neither himself, nor the party of whom he craveth it: for it is a petition, and a petition is

an Act of Indigence, and not of power, whose effect, because it depends on another, and proceeds not from the Agent it self, cannot induce any obligation. But he who promiserh something to another man, doth by his promise oblige himself, but he obligeth not him to whom the promise is made; for a promise being the Act of a free will, every man as he is a *free Agent*, and hath a power over his own will, as the Apostle speaketh, *1 Cor. 7. 37.* can exercise on himself that Right and Power which he hath over his own will, but not on another; For by the force of *Free will*, a man is master only of his own will, and of his own Acts, and not of anothers; Now on the contrary, he who layes a precept upon, or who doth command another, if he hath right to command, he obligeth by commanding that man whom he commandeth, but he doth not oblige himself; Because a command is an Act of power and Authority, and of *right* upon another; and is fit and proper, unless peradventure there be something that hinders it, to induce an obligation; so the Father with Authority commands the Son, the Master the Servant, the General the Souldier, the King the people, and God as a Superior commandeth man to such and such duties, and by commanding doth oblige him to the performance of them.

IV. In the second place I suppose, that the Legislative power is a power of publick Jurisdiction: for it sufficeth not to the power of making Laws, that a man hath a Right and power over others to prescribe unto them what is to be done, unless he be invested with an external power to compel them to the performance of it, and to as-



first punishments on the Refusers; 'Ο γὰρ τῆς ἀναγκῆς ἔχον δύναμις saith *Aristotle*, *Ethick*. 10.

The Law hath a necessitating power; The Schoolmen therefore do distinguish that power which a Superior hath over an Inferior, into that power which they call *Dominative*, or the power of Masterdome, and the power of *Jurisdiction*; The first whereof is less and more private, and not admitting an external Jurisdiction, the other greater and of a more enforcing Authority. These two powers do not a little differ between themselves, and that in a three-fold consideration. First in

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respect of the *matter* or *object*, for the *Power Dominative* or of mastery, is properly exercised on the more imperfect and private Commonalty, as a House, a School, or a Family, but the power of Jurisdiction on the more perfect and publick Commonalty, as a City, an Army, a Common-

2.

wealth. Secondly in respect of the *End*, for the power Dominative, by it self, and Primarily is ordained to the profit of the person indued with that power, that is the master, and but Secondly and by Consequence to the good of the Commonalty, as it is profitable for a Family that the master of it should grow rich; Now the power of publick Jurisdiction is Primarily ordained to the publick good of the Commonalty it self, and but Secondly, and Consequently to the good of the person indued with that power, which is the Magistrate himself, it being profitable for a Prince that the Common-wealth should flourish. Thirdly

3.

in the respect of the more effectual Administration, which is greater in the power of jurisdiction than in the *Power Dominative*, by reason of a greater

coactive Power; for examples sake, The Master of a Family cannot so efficaciously prevail that his Commands may be put in Execution by his Sons, or Servants, whom he cannot correct but with a rod, or Cudgel, as may the civil Magistrate, who by his Power may enforce his Subjects to Obedience, by imprisonment or banishment, by confiscating their Goods, or by Death it self; *ἡ πατρὶς ἀρχὴ ἐστὶν ἐν ἑαυτῇ τὸ ἐξουσιάζειν καὶ τὸ ἀναγκάζειν*, The fatherly Authority hath nothing in it that is enforcing, nothing that is necessitating, saith *Aristotle*, in the place newly quoted. Therefore to the making of Laws every superiority is not sufficient, but besides that *Dominative*, there is required the power of Jurisdiction so properly called, for the Laws cannot be made or established, unless by a Person that hath a publick coactive power; by this time you understand I believe (that I may need no more to admonish you of it) that what here hath been spoken by me concerning Laws, doth absolutely pertain to the chief Laws of a Nation, and not to any others unless *analogically*, & after their way & the proportion that is due unto them, as they come near or are more remote from their perfection.

V. To these two suppositions (which to what sense they tend, you shall easily understand from those things which presently I shall represent unto you) I in the third place do now adde a *responsive* position, *viz.* That the power Legislative is a power *autocratical*, That is, the power of making Laws, which may oblige the Commonalty, doth consist in him alone (whether he be a single person, as in the state of Monarchical Government, or whether they be more, as in other Governments) who exerciseth the chief power over the whole Commonalty;

I will in the first place explaine this position, and afterwards I will confirm it; And for the explication of it we are in the first place to understand, that for the happiness of humane societies, and the more commodious Administration of Commonwealths, it hath pleased Almighty God, the Author of Order, not only to constitute a political Government, ~~that~~ there may be Magistrates to be set over the people, but also in that very Government to constitute a political Order, that amongst the Magistrates themselves there might be divers degrees, as well of Dignity, as of Power; And it is likely that the military word of *ἐξουσία* *ἐξουσία*, which the Apostle useth in the *Romans*, hath a relation to this sense, to show that there is not only an ordination of Magistrates from God, but a subordination also, such as is seen in a military Army.

VI. In the second place we are to know, that in all things in which there is order, to avoid a proceeding to an infiniteness, which Nature doth abhor, we must at the last come necessarily to something which is the first and chiefest in that Order, where we are to make a stand. Therefore seeing that Magistrates of the same Commonalty are some of them superiour unto another in Dignity and power, it must of necessity so come to passe, that some one of them must be transcendent above the rest, that the others may depend on him, and he on none; In the same construction, the head is the highest in the body, the Admiral in a Fleet, and the Emperour in an Army. The supreme Magistrate is only less than God himself, and in governing the people committed to his charge, hath neither a Superior nor an Equal; St. Peter calls him *ὑπερέχοντα*, the Superior

perior; St. Paul *ἡ ἐξουσία τοῦ κυρίου* the higher power, <sup>1</sup> Pet. 2. and *ὁ ἐν ἀρχῇ ὢν*, the man in Authority; And the <sup>13.</sup> Schoolmen, *caput communitalis*, the head of the <sup>Rom. 13.1</sup> Commonalty, in whom solely the chief command, <sup>1</sup> Tim. 2. and the Majesty of the Empire doth consist, and to whom all inferiour Magistrates do owe all that power which they do exercise over the people, *ὡς διὰ τοῦ κυρίου*, as being sent from him, <sup>1</sup> Pet. 2. 14.

VII. In the third place we are to know, that this *supreme power*, which we call Majesty, or *Autocratical*, that is governing all by it self, according to the diverse form of Commonwealths, is placed either in some one person, or in more; In a popular state which is called *Democracy*, the chief and Sovereign power consisteth in many Magistrates, yearly chosen by popular Suffrages, or by certain other Intervalls of time, and this heretofore was the state of the people of *Rome*, when they were governed by Consuls, Prætors, Tribunes of the people, Ædils and other yearly Magistrates, and from hence proceed those Expressions which oftentimes we find in Tully, *Populi Romani Majestas*, *læsa populi Majestas*, *Visum est Senatui, populoq. Romano*; The Majesty of the *Romane* people, The injured Majesty of the people; it seemed good to the Senate, and the people of *Rome* &c. In a state *Aristocratical*, the same Majesty resideth amongst some of the Lords, and Nobles, whom in some places they call *Illustrissimoes*, in others the Peers of the Land, and in other places again, they receive other titles and appellations, according to the custom of the Nation; Amongst whom, although peradventure but one (as in the Commonwealth of *Venice*) or more of them may have a preheminance of place and digni-



ty above the rest, being as it were a certain *Primacy of Order* (which heretofore was the Honour of the Bishops of *Rome*, and some Patriarchs in their Councils) yet no man was so superiour above the rest in power, that by his own authority he could judge any one of them, neither could he himself be judged unlesse it were by all of them altogether. Some form of this Government is still retained by our Mayors and Aldermen in our Cities, and by the Heads and Fellows of Colleges in our Universities, and although as it were put in a shadow, yet in some manner they do represent it to us; But in a Monarchial Government (as the Name it self implies) the chief Power is resident in the Person of the King alone, whereupon *St. Peter*, a most excellent Interpreter of *St. Paul*, doth admonish the Christian People to obey the King, as their superior, that no man might any more doubt of whom *St. Paul* speaketh when he maketh mention of the *higher Powers Ro. 1. 3. 1. Samuel* also the Prophet of God doth so propound unto the people the fulness of the Kingly Power to be considered of, by them, *1 Sam. 8.* That if a King, the supreme in his Kingdom, should do all those things which in that Chapter it is manifest that it is lawful for him to do, upon no just Cause but upon the meer desire of Domination, and to show himself a Tyrant, and not a King, although he wanted not Sin before God, yet he ought not to have any force to be put upon him by the People, nevertheless he may justly be said to have *abused his Power* but *his own Power*. Amongst us English, what more certainly or more cleerly can appear (unless at noon we choose rather to be blind than open our eyes) than that the supreme Power

of the three Kingdoms doth intirely appertain to the Kings most excellent Majesty, whom we are accustomed to render more remarkable by the title of Majesty, not only according to the common use of speaking, but in our solemn Ordinances, and in all our forms & actions of Law, & in the taking of an oath, laying our hands upon the Gospel of the eternal God we acknowledg *him* the supreme yea & the only supreme Governour of all persons and Causes in his Kingdoms.

VIII. In the fourth place we are to understand, That when we say, the Power of making Lawes is in the King alone, It is not so to be understood, as if we meant that whatsoever the King is pleased to command shall immediatly obtain the force of a Law, for by and by I will show unto you that some Consent of the People themselves, and many other things are required to the Constitution of Law, but this is that, which I would hold forth unto you, that the Counsels of the People & Senate, and other Demands of the Peers, People, or any whomsoever, doe not oblige the Subjects, nor do carry with them the Power of a Law, unlessse they are strengthened and established by the Authority of the King, to which being maturely and due-ly prepared, as soon as the Consent of the King accedeth they immediatly receive the Name, the Form, and Authority of a Law, and forthwith begin as soon as they are published, to oblige the Subjects; Therefore, seeing that only is to be esteemed to be the *Principal* and the *efficient*, *Cause* of any thing, which by it self, and immediatly produceth, and into a prepared matter introduceth that Form which giveth to that Thing both the *Name* and the *Being*, although other things

ought to concur to the production of that Effect, or to go before it as so many prævious dispositions, that so the matter may be rendred more apt to receive the Form intended by the Agent, It is most manifest, what soever those things are which antecedently are required to the Constitution of a Law, yet the will of the Prince, from whose Arbitration and Command alone, all *Rogations* of Lawes are either established, or made void, is the only adequate, and efficient Cause of Publick Laws.

IX. These things being premised, The Position is confirmed by many Arguments, And first by the Testimony of Holy Scripture; First, *Gen. 49. 10.* in that remarkable Testament of the Patriarch *Jacob* being about to dye, *The Scepter shall not be taken away from Judah, nor a Law-giver from his Thigh.* is a Prophecy of the future Royal Dignity of that Tribe, which the holy old man doth periphrastically describe, and to the Confirmation of it, he mentioned the *Scepter*, the most remarkable witness of Kingly Authority, and the Legislative Power the chiefest Perogative of it: Secondly *Deut. 33. 4, 5.* *Moses* was said to be a King in *Israel*, because having gathered together all the Tribes of the People, he gave them a Law to observe. Thirdly *Psal. 60. 7.* *Judah is my Law-giver*, that is, King. And the vulgar Interpretation reads it, *Judah is my King.* In the Text now in hand, *Prov. 8. 15.* *By me Kings reign, and the makers of Laws do decree just things*, where (which is usual with *Solomon* in the whole Book of the *Proverbs*, that the latter part of the verse doth contain an Amplification or Antitithesis) the very same Persons who in the beginning of the verse are called Kings, in the latter part

part by way of Amplification are called, *Makers of Laws*. Fifthly, In the new Testament St. James also maketh mention *νόμον βασιλικὸν* of the Royal Law.

X. Secondly, It is confirmed by the Testimonies of Philosophers, and Historians, and by the Authority of the Civil Laws, and the municipal Laws of our Nation. The thing being so manifest we shall be content to give you but few Examples; *Aristotle*, *Plutarch*, and almost an infinit Number of other Authors of great Estimation do all affirm, that we must have a Law, and the *Law of the Prince*; But that of *Ulpian*, is very remarkable which he hath in his Book of the Roman Laws; *Quod principi placuit Legis vigorem habet*; *What pleaseth the Prince hath the force and Vigor of a Law*; which lest it may seem to make a way for tyrannical Domination being ill understood, hath heretofore been thus expounded by our Countryman *Bracton*, *What pleaseth the Prince*, that is, not every thing which headily and out of the heat of his troubled mind is suddenly conceived; and resolved upon, but that which by the Counsel of his Peers, (his Royal Assent giving Authority unto it) and deliberation, and a debate being had thereon, shall maturely and rightly be defined. And in our Laws, *cui dicitur* In the dayly proceedings in our Courts of *Pleas*, *καταλογισμός* the Laws, according to the solemn Form of Ap- *legibus ip-* pellation, are called the *Kings Laws*, for no other *vis legum* Cause, as our Lawyers have informed us, but be- *vim impe-* cause the Kings of *England* are the Fountains of Ju- *nendi po-*stice, and Laws, and (the Laws themselves in *testatem* the reading of them professing it) because from Al- *deus de-* mighty God they have granted to them an *autocra-* *dict. Finch.* *Nomo-* *tech. in* *Epist. de-* *the dic,* tical or a self-Ruling Power of giving force unto



the Laws themselves, that they may passe for, and be esteemed as Laws; This is so plain, that we need not take any further pains in producing more witnesses.

XI. And indeed this were enough, and might give abundant satisfaction, were it not for the impudence of an idle person that conceals his own Name, who by a ruinous and a nasty fiction, and which was never heard off in the world before these unhappy times, hath endeavoured to cast a mist over so clear a light, by raising an Invention of I know not what *coordinate Power*: And to flatter the nefarious Counsels and Endeavours of some *Neotericks* in these dayes, which being destitute of all defence of Right, were nevertheless for the time to be supported by some specious pretence although never so weak and slender, he doth in a Book published for that purpose, earnestly labour to make the people sensible of that wild Philosophy which hitherto had been imposed on them by way of contradiction, viz. *That the King being supreme and having no equal, is notwithstanding at the same time not supreme, and hath an equal*: yet is it not so much to be admired, as lamented, that there were found some who greedily snatched at and imbraced this ridiculous Invention, as slid down from heaven, and indeed because it concerned their Interest, that the people should be seduced into such a false Belief, they therefore suffered themselves to be so insnared by this grosse *Sophism*, as to become guilty of the foulest Perjury. For what can deserve to be called Perjury, if this be not Perjury in the highest Nature? As to acknowledge, and constitute a Power equal to him in his Kingdom, whom in expresse words you have sworn,

sworn to be the only and the supreme Power in the Kingdom. Away then with this our so absurd *Coordinator*, and with all his portentuous Jugglings, and having so cleanly rid our hands of him, let us proceed.

XII. The said position or Conclusion is thirdly proved by reason; the chiefest Act of Governing doth require the chiefest Power, for every Act being the exercise of some Power doth presuppose in the Agent a Power proportionate to it; *requiescit*, or the making of Laws is the supreme, & chief Act of Governing; It cannot therefore be exercised unless by a person who is invested himself, or who by his virtue and authority doth derive unto another the supreme power and jurisdiction over the Commonalty subjected to him; For seeing there are two most noble parts and Species of jurisdiction and publick power, and remarkable above the rest, *viz.* the *Legislative power*, and the *power Judicial*, both of which consist in *jure dicundo*, that is in pronouncing the Law, from whence the name of jurisdiction doth proceed, but with this difference, that the *jurisdiction* of the *Judge*, is the speaking of a Law only as it is already given, or exhibited, but the *Jurisdiction* of the *Lawgiver*, is the speaking of a Law that is as yet unmade, and remaineth still to be exhibited, it followeth, that the power of the Judge is far more narrow, and not of such a noble extension as that of the Law-giver. It is the office of the Judge to speak and give Laws unto the people by a Law already made, but it is the office of the Law-giver, to give Laws unto the Judge himself, and to ordain a new Law which may be a Rule unto him in his seat of Judicature; the Judge is obliged to pronounce according to the prescript of the Law consti-

constituted, The Law-giver out of the plenitude of his power doth prescribe and constitute the Law, which the inferiour Judge is no lesse bound for the future to observe than the people themselves; it is therefore no wayes inexpedient that the judicial power being a power of an inferiour nature be ordinarily exercised by an inferiour person, but it is as necessary as expedient, that the *supreme & archiepiscopal* power of making Laws should be exercised by none but only by that person who hath in his hands the supreme power; and so much of the first Doubt.

XIII. The second demand or Quære is, Whether the consent of the people be required to the obligation of the Law? For by what hath been already spoken, a man may peradventure conceive, that the power of making Laws doth pertain unto a Prince by so absolute and full a power, that the Subjects have no part in this great affair; and in whatsoever he determineth there remaineth nothing for the people to do but to perform his commands, and to humble their necks under the yoke of his obedience; And indeed according to the lusts of those who heretofore bore sway, it may appear by their *sic volo, sic jubeo*, that this excess of command did take such place amongst the Kings of former ages, when the meer arbitrations of Princes stood for Laws, that the name of a Tyrant, of an innocent, at the first, and of an honest signification, did grow at the last into a great ignominy by the sole abuse of so saving a power, and even in our days it doth convey something that is horrid into our ears as often as we hear it spoken. But that some consent of the people is at least required, I have both heretofore manifested, and it is granted by all of the most approved Authors that I have read; In-

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much that the Jesuits themselves, the most stout Defenders of the Popes *acumenical* omnipotence, and which by them is by no limits to be included, do yet hold, that many in *Germany* and other places are to be excused for the non-observing of the Laws of the Council of *Trent*, and the Bulls of the Sea of *Rome*, only upon this Account, that those Laws were never received into use amongst those Nations; I affirm therefore, and it is the common received opinion, that the Laws propounded and instituted by a Prince, or the Head of a Commonalty, do not oblige the Subjects, nor have the Power of a Law, unless they be received by the Commonalty themselves, and are allowed by the Customs and Suffrages of those that use them. According to *Demosthenes*, the Law is *νόμος συνθήκη κοινή*, The Common Engagement of a City, and if peradventure his authority be of lesse value, because he lived in the popular Common wealth of the *Athenians*, will you be pleased to hear the great Lawyer *Julian*, who lived when the Roman Emperours had the fulness of command? his words in his two and thirtieth Book *de legib.* are these, *Ipsa Leges nulla alia ex causa nos tenent quam quod iudicio populi receptae sunt*, The Laws do oblige us for no other cause, than that they are received by the judgement of the people.

XIV. But though all acknowledge the necessity of that reception or consent, yet all men do not derive it from the same Fountain. There are some who think that the consent of the People is therefore required in the making of Laws, because that Princes have all their power flowing to them from the people, which if they do abuse (as they are to be esteemed to abuse it, if they shall extend it further or longer than it shall please the people) the  
 geo-



people by their own right may again re-assume the power which before they had granted to them. This is a most erroneous and a dangerous position, and which all those who are not enemies to mankind and the publick peace ought deservedly to abhorminate; All their reason relyeth on a double foundation, but both of them very weak, and abhorring to sober sense; The first is, that Princes do owe unto the people for all their power; the other, that whoever he is who granteth power to another, it lyeth in his power to revoke that power when he pleaseth. O most egregious Sophistry! if this were so, Were *Samuel* more to be condemned for his Oratory, who the more to affright the people being weary of their *Theocracy*, or Government immediately from God, and to deterre them from their perverse affectation of innovation, had enough to do to lay before their eyes the vast extent of the power of Kings; Or were the people of *Israel* more to be condemned for their folly, who ignorant of their own right would suffer themselves to be circumvented and baffled by so gross a pretence, and return nothing back unto the Prophet, no not so much as a word? Were they all so dumb, and stupid, and void of resolution as well as understanding, that not one in so great a multitude could be found, as had either so much acuteness or confidence, as readily to make answer to these objections of *Samuel*, it being so easy for them to give such a sudden check unto them? Tell Boys these tales who have the leisure to hear them, and not the wit to understand them; We, if (our King shall thus begin to domineer) will use our own privileges, and presently take away that right from him which we have given to him. In

how

how few words had they done the whole work, and stopped for ever the mouth of the Prophet, if these fictions of new Magistrates had been so much believed in former ages, as they now are confidently suggested to new Disciples, and willingly entertained by the unadvised multitude.

XV. But to be in earnest, and to draw more near unto the thing it self, I say in the first place, That the power of Governing in a Common-wealth, by what means soever men arrive unto it, proceedeth only and immediately from God himself. The Testimonies of holy Scripture to prove this are most manifest: *By me Kings reign, Prov. 8.* That is by my authority alone, and not by any authority of men; *The Powers ordained, are ordained by God, and not by the people, Rom. 13. 1.* The Magistrates themselves which are set over the people are the Ministers of God, *Rom. 13. 4, 6.* And therefore they are called Gods, *Psal. 82. 6.* because they are his Vice-gerents on Earth; God himself, and not the suffrages of any people conferring this honour on them; *I have said you are Gods.* Can any people constitute Gods unto themselves without the filthy Crime of Idolatry? Seeing it belongs to men by their own authority to make choice of their own Vice-gerents and to intrust them with places and power according to their own, and not anothers arbitration. Will any mortal man be so bold as to arrogate that right unto himself, as to affirm that the Minister of God on Earth, and as it were a Vice-God, is made so by his authority, and by a power which his wretchedness hath conferred on him? although peradventure there may be some references or parts of the people concerning the person

Ex N. Δ.  
de βασι-  
νισ. Ho-  
mer. in  
hymna

(b) Non a-  
lio animo  
populi  
rectorem  
suum intu-  
etur,  
quàm si  
Dii im-  
mortales  
potestatem  
vivendi sui  
faciant.  
Senec. 1.  
de clem.  
19.

Lib. 5.  
contra  
Hæres.  
cap. 20.

son of the King as he is the Subject of Power, as by and by you shall see, just so as in the Generation of natural things there are some previous alterations which may prepare and dispose of the matter to receive the Form to be introduced, yet the conferring of the Kingly Power, and the application of it to the Person, is not the work of the People, but immediatly of God himself, as the *Production of a Form* into the matter subjected is the immediate work of the Agent or Person generating. That is elegantly spoken of *Irenæus*, *Cum jussu homines nascuntur, hujus jussu et Reges constituentur*; By whose Command men are born, by his Command Kings are also constituted.

XVI. I say in the second place ( to point directly to the Fountains Head ) that *political Domination at the beginning* was only the off-spring of *paternal power*; Those who have the leisure to look more diligently after the beginning of things, will find that the Nations did not grow up into Kingdoms and Commonwealths by the mutual consent of the people, but that all Empire amongst the posterity of *Noah*, did for a while consist within the bounds of paternal Authority. At that time there were neither Kings, nor petty Kings, much lesse Monarchs of vast Continents, nor so much as the least signes of any Aristocratical Government, or popular State, a word not heard of throughout all the world in those antient times, and first of all brought into *Greece* ( a moving Nation, and desirous of novelty ) by the ambition or fury of some who industriously affected new things. All Domination at that time consisted in the power of Heads of Families, amongst which he who was the

the first born of every Family, without any suffrages or election, was by a certain Right and privilege of Nature, the Governour of all things both *Holy* and *Civil*, and as it were the Prince of all that alliance, who according to his Arbitration did chastise Delinquents, first with moderate punishments, and Families afterwards increasing in to greater multitudes, he afflicted the guilty with more grievous Chastisements, till at the last, the numbers of Men still increasing, and Vices increasing with them, there was a necessity of condemning notorious Offenders unto Death; From hence it came to passe, that heretofore the Father had the power of *Life* and *Death* over his Children, and his Family, of which power there remained a long time some Impressions after the Constitutions of Kings amongst the Nations: And from hence, amongst the *Persians*, the too much severity of the power of the Fathers over their Children was so much observed, but nevertheless disproved by Aristotle; And that old and solemn form of the Romans of arrogating their Children which *Aulus Gellius* maketh mention of, *Noct. Attic. lib. 5. cap. 19. UTI. EI. VITÆ. NECIS. QUÆ. IN. EO. POTESTAS. SIET.* That he hath the power over him both of *Life*, and *Death*, &c. From these beginnings, by the increase of Families, Kingdoms by degrees did every where arise; And those who commanded over them were called Kings, and in their Dominions (although but of a short extent, peradventure but one little City with the Hamlets and Villages belonging to it) they exercised an absolute Authority and Command, *Principio rerum, gentium Nationumque Imperia penes*



Justin, 1.  
hist. 1.  
Cic. 3.  
Legib.  
τὸ πρῶτον  
ἡ βασιλευ-  
σὶς αἰ πῶ-  
λεν, καὶ οὐκ  
ἔστι τὰ  
ἔθνη.  
Arist.  
Polit.

ἡ τὴν δὲ  
καὶ παρὰ  
ἀνὰ τὴν  
πίσιν μόνον  
διαφέρει.  
Gregor.  
Presb. in  
vita  
Greg. Na-  
zianzeni.

penes Reges erant., In the beginning of things the Governments of People and Nations were in the Power of Kings, so *Justine* begins his History; And *Cicero* before him saith, *Omnes antiqua Gentes re- gibus quondam paruerunt*, All antient Nations did heretofore obey Kings; And *Aristotle* more antient than both of them doth testify, that those Cities which were free in his times ( he means the Cities of *Greece*, and others which followed their Examples ) were at the first under the Command of Kings. Amongst many other things, this is no light Argument of this original which I have spoken of, that the Dominions of Kings were heretofore inclosed in such narrow limits, that in *Canaan* alone, which is no great Country, we do read that there were one and thirty Kings overthrown by *Josuah* the Captain General of the Host of *Isra- el*, *Jos. 12*. And probably we may conjecture, that he left above as many more unfought with, for not long after the death of *Josuah*, we find that *Adoni- bezek* did exercise a barbarous cruelty on seventy Kings whom he had Conquered, *Judg. 1. 7*. What need many words? so little is the difference betwixt the Prince of a great Family, and a King of a small Territory, that they seem to differ more in Name, and Bulk, than in Deed, and Power, so that it is not to be doubted ( if a true Calculation be made ) but that the Domination of a Family in the proceſſe of Time, did by degrees, and by an unperceived enlargement, grow up into a Kingly Name, and Power; And the Original of the greatest Empire, is no where else to be extracted, but from this Head. And thus far there is nothing more plain, nothing more sure, than that in the con- ferring

ferring of Kingly power, the people had no part at all, neither indeed could have.

XVII. From these things (as I conceive) we safely may conclude (to note that by the way which is worthy your observation) That the form of Government, by which the first-born of the whole Family doth succeed into his Fathers rights, as the next Heir, is justly to be preferred above the rest, for many considerable reasons, but especially for this, because it best of all answers to that Original; to which it seems that Nature it self in some sort hath made man; From which most antient and congruous *Form* of Nature, when once we have departed (the impotent and unruly lust of Domination attempting forbidden wayes to ascend to the height of Sovereignty) all things are thereby laid open to Tyranny, and popular Indeavours; For they who arrive to Sovereignty otherwise than by a legitimate succession, must necessarily be promoted to it by one of these three ways, either by *open Force*, and *strength of Arms*, or by *Craft and Policy*, or thirdly by a *free Election*; Those who by force of Arms have obtained the Sovereign Power, whether it were by meer Usurpation, without any pretence of Right, or by War made upon their Enemies, who unjustly have provoked them (for both wayes it comes to passe) it is certain do owe no more their Authority to their Subjects, than those who succeed in their Kingdoms by Hereditary Right, nay much less, For the one do govern over their willing Subjects, and used to the yolk, and the other over an unwilling people, and if they were equal to him in strength, ready to make resistance, and to fight against him; So that in

this consideration also, in conferring of the chief Power, the people have no interest at all.

XVIII. But in the establishing of the Power of those Men, who by Tyranny and Deceit, do exercise a Tyrannical Power, it cannot be denyed, but that the people have a great interest. For those who affect Tyranny, are accustomed above all things to court the favor of the people, *potentiam ex vulgi adulatione quærentes*, seeking after power by flattering of the Vulgar. The Histories of divers Nations do afford us many Examples to confirm this Truth, I will make use only of the Abridgement of *Trogus Pompeius*, where we may find by what Arts *Pisistratus* of the Athenians, *Clearchus* of the Heracilians, *Dionysius Junior* of the Sicilians, and others of other Countreyes did allure the people to side with their factions; With invective and envious orations, they would incense the Spirits of the credulous multitude against the best of the Citizens; they would Act and Inact many things publickly to be prayesd, and which carried a face of *Clemency*, *Justice*, and *Benignity* to the people; they would insinuate themselves into the affections of the Citizens (as if they were the only assertors, vindicators, and patrons of the publick liberty) with all kind of flatteries, and allurements with which the Vulgar love, and are accustomed to be trepanned. Their pretences and dissembling of duties, their often-repeated promises, the hopes they throw in, of happier times, and of the change of Government into a better, are those egregious artifices by which they who by deceit do arise to Sovereignty, do sollicite, and bend, and lead which way they will, the moving and unwary people,

Justin. 13.  
3.

Ibid. 2.8.  
Ibid. 16.

4.  
Ibid. 21.  
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people, flattering them with fair words to serve their fowl Ambition; And *Hos equidem per-rarò hac alia fallit.*, These are the men who have the Dice that alwayes run upon the Sice; for relying on the favour of the people, and being assisted with their stocks, and their indeavours, they at last ascend to that height of Honour, and imperial Dignity, to which their Ambition did so long aspire.

XIX. But how little this availeth to prove the legitimate power of the people, in conferring of the Sovereign command, he may easily observe, whosoever shall consider, that First, it was alwayes esteemed a weak way of argumentation, to dispute *a facto ad jus*; From the Deed to the Right of it; Secondly, that which was done by the people in this Nature, was not according to Judgment, not in a quiet and a well-tempered mind, but clouded and tossed with violent affections; And when the Tempest shall be a little asswaged, and the people at last, though too late, shall find themselves to be circumvented, and over-reached by policy, they will repent of what they have done, they will be ashamed of their too forward credulity, and they will condemn their own rashness, and imprudence, who being tempted by a greedy Hope of encreasing their Liberty, have with their own hands, and of their own accords delivered up themselves into the servitude of a tyrannical Domination. All these things do breath forth a meer impotency, and a weakness of mind, so, that he must be an admirable Artist who considereth that from hence he can extract any Argument for any true Right, or legitimate Power of the People.

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XX. There remaineth therefore but one only



Form of a Common-wealth in which there appeareth any shew of popular Right, for the constituting of a Prince, and that is a *Kingdom elective*, when in the Place of the deceased Prince, a new King succeedeth to be chosen by the free Suffrages of the People; And here prolixly we profess, that the People have their share, and which indeed is lawful, and by *good Right* due unto them; but this notwithstanding is not any ways to be granted, that thereupon the whole power of the elected King, doth depend upon the people, or that it ought to be acknowledged to be due unto them; For it is one thing to constitute a power, and another thing to elect a person, that is to exercise that power; Neither is it only another thing, but for the most part, it belongs also to another Interest. The Mayor or Bayliff of such a Town or City, is yearly chosen by the Towns-men, or the Burgers, and being chosen, he exerciseth a kind of Jurisdiction within the Subburbs and Precincts of that place, which it were not lawful for him to exercise, unless he had been so elected. In the same manner amongst the Fellows of Colleges, as often as the Presidentship is vacant, they have the Right to chuse a new President, to whom being so chosen, by vertue of the said Election, the whole Government of that College doth pertain; In both places, the right of persons electing, doth consist wholly in the designation of the person to be elected, who is to exercise the power due unto his Office, not as derived from the persons electing, but as granted to him upon another account; For the chief Magistrate of a City, oweth not that power which he exerciseth in the City, to those fellow Citizens

Citizens of his who made choice of him for that year to sit at the Helm of Government, but to the *Royal Charter*, which according to the favour of it hath indulged to the City with such a privilege; neither doth the Master of a College receive the Authority which he obtaineth in it from the Fellows, by whose suffrages he is elected, but from the Founder, & from his Statutes, who hath given that Authority to him. In a word, where the election of a Prince is received from the people, either by Laws, or Customs, there the people indeed do design, and nominate the person of him who Governeth, but God alone doth confer upon him the Authority of Governing.

XXI. But let us grant to the Flatterers of the people, this their Supposition, a little to gratulate their Importunity, it will notwithstanding nothing prevail, unlesse we shall grant this also, which they had rather take, than solidly prove, That whosoever conferreth a Power on any one, it is lawful for him, as often as he thinks fit, to take from him that power which he hath given him, and to resume it into his own hands; And this is that which must never be granted; for all Reason, and Laws, and Courts of Judicature, are directly and Loudly against it; They declare That all lawful Contracts are not to be broken; And that a Donation absolutely made, and without any condition, cannot be revoked, neither in the whole, nor in part, for the right which before the election was fully in the persons electing, the election being made, doth presently and in that very deed passe into the person elected; and many other things, to the same purpose, are over the whole world the

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eum omne  
suum im-  
perium &  
potestatem  
transfere  
Ulpian. R.  
de constit.*

most received Dictates of nature, and of reason, and approved and confirmed by the consent of all Nations, as by the use of daily observation may abundantly appear. The seven Princes of *Germany* have a full power to elect an Emperour, but to remove him from the Empire being elected, they have no power; The Commonalty of all the Counties and Boroughs of *England*, that is all the Inhabitants and Free-holders (as we speak it) beneath the degree of the Nobility of the Land, have a right by common Suffrages to elect *Knights, Burgeses*, and in their name to send them to the high Court of Parliament, as their Representatives, and to intrust them with a power in their stead, and in their behalf to debate of the publick affairs of the Kingdom; but to abrogate the power which is once committed to them being elected, although peradventure they answer not the expectation of those who did elect them, they have no right at all. The same account is to be given of those men in whose power there is a right of electing a Mayor of a City, or a President of a College, or the head of any other civil Corporation, who, the election being ended, have no more to do at all, the right & authority of Governing being translated into the persons elected, whose power they are afterwards bound to obey, and to acquiesce in the election which they have made, and if the person elected shall deport himself unworthy of his place, they are not to impute it to any but themselves.

XXII. These things I confesse might longer be insisted on, and indeed it would be worth the labour to proceed further in the proof thereof, and to pluck up out of the minds of men all the strings of

so dangerous a root, and so much tending unto sedition, did not the regard of the time, and my intentions call me back from whence I have digressed; And peradventure there is no great need of any longer discourse on this subject, seeing out of the things already spoken, I believe it is manifest enough, how rashly, and how dangerously also, this so vast a power is attributed to the people; Nevertheless there be other considerable reasons to be alleged, which vehemently may perswade us, that the peoples consent and approbation is to be had in the making of Laws. First, because the Law ought to be as a *mind void of any extravagancy of desire*: but the Laws of Princes rashly sent forth to the unwary Subjects, in the favour and on the behalf of Polit. 1. Courtiers and Flatterers, are oftentimes corrupted with the depraved desires of impotent affections. Secondly, because those Laws which are not allowed when propounded to the Subjects, to speak morally, are presumed to be either unjust in themselves, or too burdensome to the Subjects, or at least unprofitable to the publick; And therefore it is expedient that they should not be enacted, it being very incommodious to the Common-wealth, that Laws should be multiplied without a necessity. Thirdly, because it is manifest, that Laws rightly constituted, may be so abrogated by a *Contrary Custome*, that they cease any longer to oblige, which Custome is nothing else, than a conjoynd consent of the people, neglecting to observe that Law as being unprofitable, together with the consent of the Prince not exacting an observation of it; Therefore it being in the same power to *destroy*,

Aristot. 3.

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as it is to *make*, the force of the Laws do seem not a little to depend on the approbation, and consent of the people. Fourthly and chiefly, because the consent of the people in the making of Laws, and their concurrence with the power of the Prince, doth so much conduce both to the publick peace of the whole Kingdome, and the safety and security of the people, that there can be nothing more; For most likely it is, that all Subjects, will not grievously, but readily and cheerfully obey, both those Kings who desire their consent; and those Laws to which they themselves shall give their consent; Neither is it to be feared, that the Supreme and Legislative power of the King, shall by this means suffer any diminution, which is the only argument that the adverse party do object against it: for that these two, I say, the *consent of the people*, and the *supreme power of the Prince* in making Laws, may friendly, and at once consist together, (besides that there seems to be no repugnancy in the things themselves) may appear by this; that our Kings of *England*, whose supreme power the Inhabitants of this Kingdom before these late unhappy times, have most fully always, and most freely acknowledged, did notwithstanding never so exercise their Legislative power, as to impose any Laws on their Subjects without their own consent.

XXIII. We conceive it therefore to be granted, that at the least some consent of the people is to be required in the making of those Laws which in Conscience may oblige the Subjects, But it may be here doubted, and that not unjustly, (I shall therefore make this the third Doubt or Demand) how great, and

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μος ὁμο-  
λογητός  
ἐστίν.

Aristot. 1.  
Polit 6.

and how much of the consent of the people may be required to this, that the *placit* of the Prince may have the vigour of a Law? I answer, in this consent of the people of which we now treat, two things are to be considered, *viz.* the *time* and *manner* of consenting; And both these do fall again under a twofold consideration; For either the Law is consented to, as to the time, that is before the promulgation of it, or after; or as to the manner, that is, with an expresse consent, or *suffrages*, or with a tacit consent, or *customs*. From the complexion of these there do proceed four sorts or degrees of popular consent.

XXIV. The first and the lowest, and least degree of all, is the tacit or silent consent before the publication or asking of the Law, which is, when a people have so put themselves, and all that they have, in the power of the Conquerour, or by a long custome of obedience, have so entirely submitted themselves to the will of the Prince, that whatsoever he determineth, they do yield unto it; And this may come to passe both ways, for by the Law of Nations, that power of the Prince is just, which is either obtained by a just War, or confirmed by a continued succession as by a right of prescription; And this degree indeed, although not very profitable to the people, if the Prince be pleased to turn his power into tyranny, yet it will so far suffice, that the people cannot complain of any injury done unto them, if it should so fall out that the Prince should determine any thing too severely against them, which peradventure is not unjust, but such a thing as they would not willingly have to be done. As amongst us many of the Presbyterians do, importunately (as  
their

their Custom is) and unjustly complain that the election of Parochial Pastors is unlawfully taken away from the People, when those who ought to be chosen to that Office by the Parishoners, are presented by some private person, or by some College under the name of a Patron without their Consent; not dreaming all the while, that the right of Electing, if the People heretofore had any, (which is very uncertain, and if denyed can never be proved) for some certain Cause from the beginning, but by the long prescription of Time now unknown, was long agoe conveyed unto those whom they call the Patrons of Benefices, and so in the election made by the Patrons, the Consent of the People is virtually involved and contained; which answer, if it be of no force amongst men that are obstinate in their own opinions, yet of this at least they are to be advertised, which may be enough to satisfie the most importunate Adversary, which is, that the Rights of *Patronships*, and the Advowsons or Advocations of Churches were long agoe established by Authority of Parliament, that is, by the common and full Consent of the whole People. And therefore what is done in this Case by a legitimate Patron, the People have already consented that it is lawful for him to do it.

XXV. The second *Degree* is the silent Consent of the People to such a Law after the promulgation of it, that is, when the People do not contradict the Law, made and published by the King, but rather do approve it by their Deeds, by conforming themselves to the will of the Prince, and by observing that which is commanded by the Law; for if he who but holds his peace doth seem to consent, much

much more is he presumed to consent, who expresseth an actual obedience. Of this degree of Consent thus speaketh Julian again in the place above cited. *Quid interest suffragio Populus voluntatem suam declaret, an rebus et facto?* What difference is it if the People do declare their Consent by suffrages, or by deeds and Acts?

XXVI. The third Degree is the expresse Consent of the People, to a Law propounded to them by the Prince, and they consent unto it being asked, that is, when a Prince having prepared at home the matter of the Law by the Counsel of wise men, and though not perfectly drawn it up, yet he hath run it over, and put it into some Form, and transmitted it to his Subjects to be further examined, that nothing may openly be contained in it that is either inconvenient, or absurd, requiring withall that they, or a great part of them, if they find it to be advantagious to the Common-wealth, would confirm it with their Suffrages, that so by their Consents it may pass into a Law, and this, in some manner, was heretofore the Custom of the Romans, their Common-wealth yet standing, And from this asking, the Rogation of their Laws received its original, A word most frequent amongst the best of the Writers of the Roman affairs.

XXVII. The last, and highest Degree, which is the greatest and indeed the true Liberty of the People, by which we Britains have so long been happy even unto envy under excellent Kings, and had we not out of our stupid Ingratitude made our selves unworthy of so great a blessing, we had continued still most happy, is the expresse Consent of the People before the enacting of the Law, when the

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prescribed Form thereof ( a just and deliberate Debate being first had of the words , and the matter of it , and approved by the House of Peers , the Suffrages of the House of Commons conjoined with them ) is at last exhibited to the Kings Majesty , to whom alone the chief Power of making Laws doth belong , that being by him confirmed if it seem good unto him , it may have the Power and Vertue of a Law , or otherwise it may be made void , and be esteemed no Law ; which manner of enacting of Laws being most prudently devised by our Forefathers , and brought even unto our times by so long a *Series* of Kings and years , hath been found by the Use and Experience of all Ages past , so profitable to the Common-wealth , that if unreasonable Counsels had not been taken ( to speak no more of it ) for the removing of the old *Marks* and *Limits* from their right Places , our Churches , Universities , The King , The People , The Commonwealth , and every private Family had by the blessing of God yet flourished , which now by his most just Judgment do goe to wrack , and every day do suffer more and more. And I do believe that a better way cannot easily be thought upon by the wit of man , to moderate on the one side the Power of Kings , and to check , and to restrain on the other side the Licence of the People.

XXVIII. The fourth Doubt followeth of the Laws of lesse Commonalties , for examples sake of Cities , Universities , Colleges , and Schools , which besides the Laws common to all the Subjects of the Kingdom , do rejoyce in their own private Laws , Rights and Statutes. The Question is , to what *Persons* the Power of making their Laws doth pertain

tain, and being made, *whom* and to *what* they oblige? The answer is not difficult, I say therefore in the first place, these Societies, Corporations, and Colleges being all Members of the great Body of the Kingdom, and are contained in it as the inferiour *orbes* of the Heavens are contained in the Superiour, it is not lawfull for any College or Society, or for the Governours or Overseers of them, to make *private* Laws for their own use, which may be contrary or any ways prejudicial to the publick Laws of the whole Kingdom; I say in the second place, that seeing by the grant of Princes, and their special grace, and indulgence, these societies are incorporated, & enjoy no other Rights, Privileges, or prerogatives besides those which it is manifest have been granted to them by a long prescription of time, or by the Charters & Letters Patents of the King, it is to be concluded, that all the *Legislative power* which is derived from them, is a derived, & not a *primitive* power, & is at last to be resolved into the supreme power of the King as the true original of it, and therefore the said Societies and Governours of them cannot according to their own will either constitute or actually exercise any power in the making of Laws, unlesse according to the *manner* and the *measure* of that power vouchsafed by the indulgence of the Prince. I say in the third place, that Laws made by private Colleges and incorporated Societies, according to the tenor of the power granted them by the King, do oblige all the Members of the said Societies, and of all those that are under their jurisdiction or Government, and none but those, *directly of it self*, and by its *own force*, but by the Virtue of the Kings supreme Majesty

jeſty on whoſe authority they rely, and from which they receive all their force, they do in ſome ſenſe, and indirectly oblige all and every Subject of the whole Kingdome; but there is not the one and ſame *account*, nor degree of theſe two obligations; For theſe Laws oblige thoſe of their own Society to the diligent obſervation of them, but the others unto this, that they do no ways violate, or diminifh them, or hinder the obſervation of them.

XXIX. The fifth Doubt is of Eccleſiaſtical Laws in the *Species* of them; And that new Laws may be made concerning *Rites*, and *Eccleſiaſtical* things and *perſons*, and of all Circumſtances of outward external worſhip belonging to Order, Honesty, and Edification, beſides thoſe delivered by Chriſt and his Apoſtles in the word of God, is a thing ſo manifeſt, and conſentaneous to Reason, that he will hardly clear himſelf from the ſuſpicion of a perverſe and obſtinate Spirit; who being dry, and ſober will deny it; but ſince the time that the Divines have divided themſelves into ſeveral parties, it cannot eaſily be agreed upon amongſt them to underſtand unto whom it doth belong to make Eccleſiaſtical Laws. The Papiſts who would have the Clergy to be exempted from all juriſdiction of the Civil Magiſtrate (of which controverſy we cannot here diſpute) do affirm that *Biſhops* only, and amongſt them the chief *Biſhop* eſpecially, whom they call the *Biſhop Oecumenical*, hath the right and power to make Laws, which may not only oblige the Conſciences of the Clergy, but of the Laity alſo, and that without any conſent, or licence of the *politick Magiſtrate*. There are ſome who (the perſon only, but not the opinion being changed

ged ) do embrace this *Tenet*, as also many others of the Papists, who notwithstanding do professe themselves most bitter enemies unto Popery, but in the mean time the *Disciplinary Reformers* our new *Davusses* do disturb all things, and having taken away all Power, Authority, and Ecclesiastical jurisdiction from the King, they do challenge it only to themselves, and to their own *Classes* and *Conventions*. The *Erastians* on the other side, and our new Reformers no lesse than they, under the pretence of Reformation, having altogether disinvested the Clergy of all Ecclesiastical jurisdiction, do wholly attribute the universal right of the external Government of the Church to the Civil Magistrate; And moreover as for these our own *Disciplinarians* at home, Good God! what Monsters of names and opinions, as full of *Deformity* as of *Difformity* have these last seven years fruitful of prodiges brought forth, and nursed under the pretence of Reformation.

XXX. I have neither the leisure nor resolution ( unless I should appear too troublesom to you ) to grapple at this time with both these Adversaries; But in these ( as in many other Debates ) that opinion seemeth to be the truer, and is truly the safer, which is lodged in the middle betwixt the two extremes; and I am confident you will be so much the more willing to imbrace it, by how much it is more agreeable to the Doctrine of the English Church, as also to the Laws of the Kingdom, which is, That the Right of making Ecclesiastical Laws is in the Power of Bishops, Elders and other Persons duly elected by the Clergy of the whole Kingdom; But so nevertheless that the Exercise of the same



Right and Power in all Christian Common-wealths ought to depend on the Authority of the *supreme Magistrate*, both *a Parte ante* (as the Schoolmen have it) & *a parte post*, on the part *precedent*, & on the part *subsequent*, to wit, that they ought not of themselves to assemble for the making of Ecclesiastical Canons, & Laws, unless they be called to it by his *Mandate* or Command, or at least defended by his Authority; a full & free leave being both asked, & obtained, and being thus called and warranted, their Laws or Canons to which they have consented, are not ratified, nor have any Power of obliging, until the Assent of the supreme Magistrate be obtained, by whose approbation, and Authority, as soon as they are confirmed they are presently to pass for Laws, and do oblige the Subject; And these things may suffice to be spoken of the Cause Efficient.

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THE

## EIGHTH LECTURE

## Of the Obligation of Humane Laws

from the Formal Cause: where,

- Of { 1 The Promulgation of Laws,  
2 Of Laws Penal.

Ezra 10. 7, 8.

7. *And they made proclamation throughout Judah and Jerusalem, unto all the Children of the Captivity, that they should gather themselves together unto Jerusalem.*

8. *And that whosoever would not come within three days, according to the Counsel of the Princes, and the Elders, all his substance should be forfeited.*



F the obligation of humane Lawes, as to their *material* and *efficient* Causes, we have spoke enough, and as much as conduceth to our present purpose, in those points which have already been handled by us. In this place we are to speak of such as may be reduced to the *Formal* kind of Causes, and although peradventure not so properly, (if examined according to the accurate and exact Method) yet in

my Judgment not altogether incongruous to our Discourse on this present Subject. They may all of them be reduced to two Heads, The one of the *publication of Lawes*, and the other of the *penalty* adjoined to them, to be inflicted on Delinquents. Both of which as they are expressly contained in the Text above cited, (The Publication of the Law in the seventh verse, and the penalty of it in the eighth verse) so the use of them is very necessary, both by the *Nature* of the Law it self, and to obtain the *Effect* of the Law; For seeing the Law by its own Nature, and as it is a rule of things to be done, ought to have a double Power, *viz.* A Power of *Directing*, by shewing unto the Subjects what is to be done, and what is not to be done, and a Power of obliging, by suggesting into their minds a necessity of obeying; The Law could not duely, and effectually exercise this twofold Power, unless the Subject were informed what is the will of the Prince, which is done by *publication*, and understood withall by the penalty annexed to it, how much it doth concern him to perform it.

II. Concerning the Publication of the Law; the first Doubt is, Whether this publication be merely on the Account of, and as it were intrinsical to the Law? That is to enquire, Whether, that as the Law hath the Power of *directing* and *obliging*, the promulgation of it be so necessary that it wanteth of that Power unless it be promulgated; Now in all this Discourse you are to understand, that I take not this word *Promulgation* as it is used in Cicero & other Roman writers, but according to the received manner of speaking amongst the Schoolmen & the Canonists of the latter Ages; for in that *Promulgation* of the Antients

Antients, the Law not yet established, or fully made, was propounded to the people publicly on three Market days for their approbation of it; But the Publication of which we now speak, is the Promulgation of a Law already made, that the People may take notice of it. I therefore shall briefly answer to the Doubt proposed, and say, That this Publication is so necessary and so intrinsecal to the Law, that in some manner it may be called the *Form* of it, and thereupon amongst many Authors it is a part of the Definition of it; and indeed it is absolutely necessary to this, that the Law may exercise the Office of a Law, which is to direct, and to oblige the Subjects, whom it cannot direct, much less oblige, although made by never so just, and undoubted Authority, unless it be known to them, and it cannot be known unless it be published; For that which properly induceth the obligation, is the *Will* and *Authority* of the Prince or Governor, not as a single, but as a publick Person, and the Head of the Commonalty; But unless by some publick means he shall cause his Will to be propounded, and made known unto the People, it cannot by any Law be manifest (at least according to the interpretation of the Law) that it is his Will, and proceedeth from his Authority as he sustainerth a publick Person; *Dist. 4. Sect. In illis.*  
 And from hence is that of the Canon Law, *Leges constituuntur cum promulgantur*, *Laws are constituted when they are published*, And that also of the Civil Law, *Leges quæ constringunt vitas hominum ab omnibus intelligi debent*, *The Laws which do bind the lives of men ought to be understood by all*; which being approved by the Common Consent of all Doctors, and the Dictates of Reason, we need



not here, for the confirmation of <sup>r</sup>, to instance the Example of God himself solemnly pronouncing his Law unto the *Israelites* from the Mount of *Sinai*, or the Practice of the most flourishing Commonwealths and Cities in the whole world, who as soon as their Laws were made, did in the most publick places expose them to the observation of the people engraven in Tables of Brasse or Wood; the words are most known which every where we meet with amongst antient Authors, and to this classis pertain the *Νόμοι*, *νόμους*, and the *ἀξωνες*, which signifie nothing else but the Tables in which the Athenians wrote their Laws. Of the same nature were the twelve Tables of the Romans, and others of other Nations; concerning which let those men who have the leisure to be curious of such antiquities consult with the *Philologers*, and the writers of Dictionaries of both languages; we must proceed to other things.

III. The necessity of the publication of Laws being thus granted and determined, there ariseth a second Doubt, What this promulgation of the Law ought to be, that it may pass for lawfull, and inferre an obligation? In answer to which I say in the first place, that the manner, and the reason of publishing a Law, as to the particular *Rites* and *Circumstances*, may be varied according to the Customs of diverse Nations; But all do agree in this, and by common use it is required, that the Law-giver take care to have his will so propounded, and manifested to his Subjects by some external sign, that it may publickly be known unto them all, so that none of those who are bound to observe the Law may be ignorant that the said Law is extant, and this is there-

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fore required, because the power of directing is intrinsic and essential to the Law, & Subjects cannot direct their actions according to the will of their Prince, unless they know what his will is, & how can they know it unless by proclamation, or by writing, or insculpture, or some other outward sign it be sufficiently exposed, and manifested to them?

IV. I say in the second place, To the publication of a Law to oblige the Subjects, it is not only required that the Lawgiver doth publicly signify his will unto them, but he is to proceed further, that is, to have it done in a solemn manner, or at least that it be so done (which is even as much as a solemn Right) that it may be sufficiently testified and made known unto his Subjects, that the Law-giver intended, that this will of his may have the power of a Law, and that it may oblige them; the reason is, because, not every will of the Superiour, although known unto the Subject, doth presently, and *in ipso facto* oblige him, unless withall it be manifest, that the Superiour had an intention that it should oblige him; For every Superiour endued with a Legislative power, and sustaining a double person, the one private, as a *single man*, the other publick, as a *Lawful Superiour*, doth come under a double consideration. In the midst of these late tumults, the unhappy caprichiousness of some wits did put me to this new distinction, concerning the *personal*, and *political Capacity* of a King. The Distinction in my judgment is something more proper to our present business, than to the Subject then in hand; It is this, the will of a Prince, (if a Prince be considered as in his personal capacity) that is as he is a single, and as it were a private per-

son, carries not with him the respect of a Law, and obligeth not his Subjects to direct their Actions according to it; Therefore to oblige the Subjects, It is not enough for a Prince any way to signify unto them, that he will have *this* or *that* done, unlesse upon some other account it be manifest, that it is his will to have it so done, as he is in his *Political Capacity*, that is, as he is a Prince, and the Head of the Commonalty, and as he sustaineth a publick person with a *Legislative Power*, which seeing it cannot be made manifest enough by the bare signification of his Will, it is needful that by some more publick, and solemn Ceremony, it should be attested unto those whom it concerns to have the knowledge of it, lest any man, for the excuse of his Disobedience, might pretend that rotten, and that vulgar one, *I had not thought of it.*

V. I say in the third place, In large Empires which contain many Provinces, it is requisite that the publication of a new Law be made in every Province of the Empire. Some there are who think this to be simply necessary, and to be required from the nature of the Law, which doth not oblige, unlesse it be received of the people; And therefore if be only published in a Princes Court, or in the *Metropolis* of the whole Kingdom, or some chief Cities thereof, the promulgation of it is no way sufficient to oblige those who do live in the more remote places, and provinces; But although this be not absolutely necessarily (neither doth the nature of the Law seem to require it, and the common opinion of the Doctors, as well as the common practice of most Nations are of another Judge-

Judgment, yet it is profitable that it should be done, that so the Law, to which all men are bound, as much as may be, may come to the knowledge of all men; which by how much the more easily it may be done in our times, than in Ages heretofore, before the Art of printing was found out, by so much the more inexcusable is the neglect; But to make no digression, The manner of publishing our Laws which is received amongst us, doth not only seem to be the most sufficient, but the most easy and commodious of all others, viz. that the Laws signed and passed by the King, by the consent of the Representatives of the whole Kingdom in the Houses of Parliament, the Parliament being dissolved, be committed to the presse, and printed by the Kings Printer, and in a known Character, that no man may doubt, but that the said Laws are lawfully made, and sufficiently published.

VI. The third Doubt, It being supposed, that the Law is sufficiently published; When doth it begin to oblige the Subjects, presently after the publication of it, or some time afterwards? I answer in the first place, that it is beyond all controverſie, that those Laws, in which a certain time of obligation is defined, As soon as that time is arrived, the said Laws begin presently to oblige, and the obligation of them is perpetual, unless there be a time for the obligation of them, which in the same Laws is expressed, or they become to be abrogated by a new Law, or by a contrary custome. And hence it is, that according to the common consent of the Civil Lawyers, the Laws of the Emperour being newly made, do not oblige the Subjects of the said Empire, unless af-

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rer the space of two months after the promulgation of them, because that this time *by some Authority in the Novels*, as in all other of their Laws is to be observed, is universally prefixed & defined, & for this intent, that it is presumed, that in the space of two months the knowledge of the said Law may easily be brought unto all the Subjects. I say in the second place, That in the Kingdoms, and Common-wealths, where nothing of any certainty is either defined by Law, or received by custome, concerning the time in which Laws new made do begin to oblige, the said Laws having no certain time of obligation affixed to them, do presently as soon as ever they are published, according to the manner of the Country, oblige all those Subjects to whose notice they are arrived, or where it was not in the fault of the Lawmaker, but that they might have come to the knowledge of them. For seeing the obligation of the Law dependeth on the will of the Law-giver, and not on the notice of the Subject, it followeth, that the obligation of the Law is of force, when the Law-giver hath sufficiently expressed his will to his Subjects by some outward sign, whether it were made known to all his Subjects, or whether it so fell out that some of them peradventure were ignorant of it; For grant but the Law, and the obligation is granted, which hath its dependency on the Law, as it is a Law, and necessarily followeth it, as every necessary Effect doth follow its proper Cause, as already we have often mentioned. Therefore there being nothing wanting to a Law that is required to the compleating of its essence, after that it is made, and sufficiently published, it altogether followeth that

that a Law so made and published, ought presently to inferre an obligation; neither is it any wayes inconvenient, that an obligation be made, and become outs by the *will* only & *Act* of another, we not knowing it, if the said obligation doth carry with it the nature & construction of a *moral Debt*, as the Schoolmen speak it; Although from obligations and debts which arise from contracts, the case is otherwise.

VII. The *fourth* Doubt; How the Law doth reach unto those, who though after a sufficient publication of it, and the elapse of the time prefixed by the Law, have not yet *actually* any knowledge of it? Which is to demand, whether he to whom the Law is not actually known, be so guilty of the fault, that he transgresseth, if he doth any thing against it, and thereupon deserveth that punishment which that Law inflicteth on the transgressors of it? The reason of this *Doubt* is, on the one side, because that obligation is vain, or rather none at all, which obligeth neither to the *fault*, nor to the *punishment*; And on the other side, both because it is absurd to be bound to that which is impossible; but to observe a Law which we know not, is certainly impossible; as also, because from the two Offices of the Law above specified, it is necessary that the power of *directing*, as first by Nature, must go before the other power of *obliging*, so that the Law cannot oblige any, but whom it directeth, and it cannot direct any, but those to whom it is known. This being laid down in the first place, which admits of no scruple, *viz.* that the Subject to whom the Law is known, is obliged both to the *fault*, and to the *punishment*; As for those that know not the Law,

I answer to the propounded *doubt*, and say in the first place, that he who by his grosse negligence is ignorant of the Law, when it proceeds from his own *fault* that he is ignorant of it, is no lesse, or at least not much lesse guilty of the *fault*, and deserveth *punishment* as well as he who doth know the Law, and doth it not. For the Ignorance of that thing which every man ought to know, and may know, doth excuse no man; And in the interpretation of the Law, there is no great difference betwixt a *wilful Ignorance*, and a *fault committed*.

VIII. I say in the second place, That he who is therefore ignorant of the Law, because he was a little more carelesse, or negligent, than in a businesse of that moment he ought to be, although the *fault* be never so *light*, as the *Civilians* term it, yet because it is manifest, it was done by a *fault*, and by his *own Fault*, he is not altogether free from the obligation of the Law. My Reason is, because that Ignorance was *vincible*, as the Schoolmen speak, that is, which could be overcome, for if the Subject had been so diligent as he ought to have been, and as the dignity of the cause required, and as wise men use to be in their employments of greater weight, he could not be ignorant, it is presumed, of the promulgation of the Law; Now his Ignorance of that Law, according to which every man is bound to direct his Actions being in him an ignorance that might have been helped, this Ignorance cannot be but culpable, and if culpable, in whatsoever degree it be, it cannot but accordingly be *inexcusable*. It may be argued; But by how much the lighter the fault is, the Ignorance

rance in both Courts, is so much the more excusable, and amongst the equal Arbitrators of things, doth deserve a more easy pardon. It is to be answered, that he was before obliged by the Law, although he was ignorant of it; And it is manifest by this, because as soon as ever, by the Testimony of some man of Reputation, he understood that the Law was published, he immediately in his own Conscience judged himself to be obliged by that Law, now there could arise no obligation from a new report, or by the Testimony of this man, neither is there any power of obligation either in himself, or in his Testimony, therefore without doubt he was obliged before by that Law, although he had neither notice of the Law, nor any Conscience of the Obligation.

IX. I say in the third place; He who in earnest and invincibly, either by accident or any other impediment, and by no neglect of his own, is ignorant of the promulgation of a Law, as if any man should be visited with madness, or labour under some long or grievous disease, or being newly returned from foreign Countries, should never hear of the publication of such a Law, nor indeed could hear of it, he is not by that Law obliged either unto the fault, or any punishment of the fault so properly named; Nevertheless by the same Law which he is invincibly ignorant of, he may become so far lyable to a punishment improperly so called, that is to some *losse* to be sustained. The first part of this position is thus proved; No man committeth a fault, or deserveth punishment who doth not Sin; but he who keeps not a Law, of which he is invincibly ignorant, doth not Sin (for if he should



should sin, he were obliged to that which is impossible) therefore he cannot deservedly be blamed, nor justly punished; But that he may be obliged to some damage to be sustained by that Law (which is the other part of our assertion) shall appear to be most clear by this example. Suppose there be a Law prohibiting some certain kind of Traffiquings and Contracts, by which Law, amongst other things, it is decreed that all such contracts, made one month after the promulgation of the said Law, shall be altogether void, and of no effect; If any man after that month is run out, being in good earnest, and invincibly ignorant of the promulgation of that Law, shall strike such a bargain, which is by the said Law forbidden, he will be clear indeed from the fault, by reason of his invincible Ignorance which was impossible to be helped, and consequently he ought to be free from the punishment, which justly is due to no man, but for the fault; nevertheless he shall not only sustain the Damage, by reason of the nullity of the Contract, which he entered into, but he is bound also to sustain it according to Conscience, both by the force of obedience, which is due unto the Law; and by his reflection on the publick profit; The like is to be determined in many other Laws of the like nature; For examples sake, In those Laws by which persons are disabled, & by which privileges are revoked, In those Laws by which Usury is moderated, and in those by which certain prices of things to be sold are constituted, and in the like, of which the Canonists and the Divines do treat at large. Neither ought this seem to be unjust to any man; for although a Damage be sometimes called a Punishment, it is only *analogically*,

## Of the promulgation of Laws.

ally, and very improperly, for otherwise there is a great difference betwixt a Dammage, and a Penalty, or punishment properly so called; If an innocent person be punished, a great injury is done unto him; but often it comes to passe, that an innocent person may be dammaged, and yet no great injury done unto him. And thus much as conduceth to our present purpose, may suffice to be spoken of the promulgation of the Law.

X. In the next place we are to speak of the *penal Law*, in which many things being omitted which unprofitably are accustomed to be disputed by many of the Casuists, and which pertain rather to the external and pleading Courts, as that of the Canonists and Papists, than to the internal Court of Conscience, we shall be contented to give a view unto you of some few, and the most remarkable of them, and which most nearly we conceive do conduce to the Government of Conscience: In this kind we meet first of all with this doubt; Whether the Constitution of the punishment doth any wayes pertain to the Essence of the Law. I answer; It seemeth that it doth not as something that is *extrinsically* requisite to compleat the Essence of it, so that the Law were not a Law, if the penalty were not annexed to it; but only *consequently*, as something necessary to this, that the Law may *effectually* obtain the end which it intended; For the *Form and Essence* of the Law consisteth in the *Precept* of it: I here understand *Precept* as it is largely taken to comprehend a *prohibition* with it, as in the Scriptures are the words *אלוה* and *ישראל*, and amongst the Divines, as well Negative Commandments, as Affirmative, are con.

commonly called *Precepts*; And from this *Precept* alone, both the powers do depend, which we have said to be in the Law, *viz.* the power of directing the Action, and of obliging the Consciences of the Subjects; For the Subject hath a sufficient Rule, according to which he ought to direct his Actions, and to the observation whereof, unlesse he will be wanting in his duty, he is bound in Conscience, as soon as he understands that his lawful Superior hath commanded *this* or *that* by Law, whether there be any punishment annexed to that Law, or not; Therefore this necessity of annexing the punishment doth not arise from the Nature of the Law it self, which consisteth in the meer *Precept*, but (that the *Precept* which of it self would not barely suffice, may with the greater vigour obtain its effect) from another double *Hypothesis*, the one of the *Subject*, the other of the *End*; For it is expedient that the Laws should be most religiously observed, which is the *Hypothesis* in respect of the *End*, nevertheless the inbred Depravity of mans heart being supposed (wch. is another *Hypothesis* in respect of the *Subject*) it can very hardly or almost never come to passe, but that the most profitable Laws will be despised, either by the negligence, or the perverseness of most men, unlesse by fear they are contained within their bounds, who make but a mock of the Dictates of Conscience. From this double *Hypothesis*, it comes to passe that the wisest Law-makers, have alwayes judged it necessary, and saving to the Common-wealth, to add more force to the observation of this Laws, by the fear of punishments, and that after the example of God himself,

Tacitè  
permitti-  
tur, quod  
sine ultio-  
ne probi-  
betur.  
Terr. 1.  
contra  
Marcion.  
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Qui ratio-  
ne traduci  
ad meliora  
non pos-  
sunt, solo  
metu con-  
vincentur.  
Quintil.  
12. Instit.

self, who pronounced not the first Law which he gave to man, without the threatning of a punishment, *Gen. 3.* Some good Citizens peradventure (whose number are but few) induced only by the Conscience of their Duty, and their Love unto Virtue, and their Country, would render Obedience unto the Laws, although there were no punishment propounded, but the *Turba*, or the greatest number, are enforced only by the fear of punishment to the performance of their Duties; It is manifest hereby, that the Constitution of punishments in the making of Laws, is necessary.

XI. The second *Doubt* is, concerning the obligation of the penal Law, as to the extension of it, whether the penal Law doth oblige only unto the penalty, or whether it obligeth unto the fault also? Which is to demand, if a Subject may so satisfie the Law, and his Duty, if being prepared to undergoe, and by undergoing the penalty constituted by the Law, he may be no longer guilty of the Delinquency, although he observeth not the command of the Law; Or whether, for all that, he is not bound in Conscience to the performance of that, which is by the Law commanded. That more clearly and distinctly we may answer to this doubt, it being a Question of great Moment, and of which in the Common Lives of Men, there is a most frequent use; It will not be amisse, the better to unfold it, to premise some things which are very profitable before hand to be known. We are to understand therefore in the first place, that that *positive Humane Law*, ought only to be called *Penal*, which by the will of the Legislator, doth expressly determine some *temporal* punishment for the *Transgressors* of it; And in all  
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this discourse, as often as mention is made of punishment, you are to understand no other, but only a *Temporal punishment*. This word *Temporal punishment* is taken in a twofold Consideration, either as 'tis opposed to the *Spiritual*, or as it is opposed to *Eternal punishment*. And for the most part in common discourse they are taken as Members contradictory to one another, sometimes *Spiritual* opposed to *Temporal*, and sometimes *Eternal* unto *Temporal*; there are therefore three kinds of punishments, or, if you will, you may call them, *Species*, or manners of punishments, or degrees of punishments; For whatsoever comes under the name of punishment, is first, Either a spiritual punishment, as the *losse* or the *deprivation* of *Grace*, &c of the friendship of God, or of that inward joy, and consolation, which ariseth from the sence of his *Grace* and *Love*.

1. Or secondly, it is an *Eternal punishment*, which consisteth partly in the *Eternal Deprivation* of the beatifical vision of God and Christ, and partly, in the eternal *Torments* of *Hell*.
2. Or thirdly, it is a temporal punishment, distinguished from both the former, which pertaineth to the state of this present life, and hath relation only to the body, and external things, neither doth it take away of *it self* and *necessarily* either the sence of the *Grace* of God, or the *Hope* of everlasting life; Temporal punishments of this nature are the *losse* of money, *Banishment*, *Imprisonment*, or *Fines* set on the head of any one, *courgings*, and many of the like; and lastly death it self. Those punishments which are the chiefest and of most frequent use may be reduced to these heads, *Death*, *Banishment*, *Confiscation of goods*, and *Imprisonment*.
- 3.

XII. In the second place we are to understand, that *punishment* as it is opposed to the *fault*, is taken again two wayes; For sometimes it is taken *largely*, and *materially*, as it is opposed to it in a contrary opposition, that is, as it is another *Species* conditioning the same *Genus*; And so every *Evil* that befallerh any man, which is not *malum culpa*, the *Evil* of the *fault*, is called a *punishment*, or *malum Poene*, the *Evil* of *punishment*, although it be not inflicted on him who indureth it for any *fault* going before, but casually or by injury it may happen to him; so a suddain Disease, mony taken away by theft, a Wound given by a thief, goods lost by fire, or Shipwrack, and all kind of *Hurt* or *Dammage* which is grievous to indure, is to be numbred amongst things penal, and to come under the name of *punishment*; Sometimes the word *punishment* is taken more *strictly*, and as it were *formally*, as it is opposed to the *fault* in a relating opposition, that is, as it is inflicted on a man for a preceding *fault*; As if a man should be mulcted fourfold for the goods of another taken away by Theft, or should be banished for sedition; And this is the proper, the former the improper signification of the word *penalty* or *punishment*. for *punishment* is improperly so called, when no *fault* did go before it; From hence proceeded that most known Definition of *punishment*, that it is; *Supplicum quo quis propter delictum afficitur*; It is a *punishment* with which any man is inflicted for a *fault*. Secondly, in this present disputation we intend to debate on both the significations of the word, as the nature of the discourse shall require; But the last is the chiefest, for it is called a *penal Law*, not so much in the respect

spect of the *Damages*, or the *Hart* wch. can come unto any man by occasion of the Law (& that peradventure justly; though without any fault of his) as in respect of the punishment, wch. by the determination of the Law is appointed for those who do transgress it.

XIII. In the third place we are to know, That in penal Laws, some are purely penal, and others mixed. *A Law purely penal* is, when in the simple ordination of it, it only appoints the punishment, and neither by commanding, or forbidding doth expressly enjoin any thing. For examples sake, suppose there be a Law which giveth power to the Inhabitants of any City or Town, to choose every year one of the most remarkable of the Citizens to be their Mayo, or Bysliff, this clause being added to the said Law, *The Citizen who is chosen, and shall refuse the place, shall be fined one hundred pounds*, This Law is purely penal, because it ordains a punishment for those who shall refuse to undertake that office, nevertheless it commandeth no man to undertake it, nor forbiddeth any man to refuse it. *A penal Law that is mixed*, is, when it commandeth any thing to be done, or forbideth any thing, the penalty being added that is to be inflicted on the Transgressors. For Examples sake, let us suppose a Law to be declared in this or the like Form, *Let no man presume to transport any of the Merchandize of this Nation into a forain Kingdom, or to sell any forain Merchandize in any place of this Kingdom, unless he payeth the accustomed Tribute, he who shall to otherwise shall suffer the loss of the Merchandize he vendeth*. This is a penal Law, because it hath a penalty annexed to it, nevertheless it is not purely penal, but mixed, for under that penalty it

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commandeth the *Customs* to be paid, and forbiddeth the exportation, or the selling of Wares, the *Customs* not payed. Some there are who think that there is a third kind of a *penal Law* to be added to these two, which containeth at once both the command and the punishment, but neither of them *positively* and *specially*, but both of them *disjunctively* and *indifferently*; For examples sake, let there be a Law under this Form, *Being chosen by the Commonalty of the City, either undergoe the Office of the Mayor, or chief Magistrate, or pay a hundred pound*; There needs not for this cause that any new *Species* should be added; For the *Species* of things are not to be multiplyed without necessity; And this *disjunctive Form* of propounding the Law, ought to be referred to that which is *purely penal*, for in it self it containeth no absolute command; if you allege; Of these two things, though neither of them is commanded *definitely*, yet both of them are commanded *indefinitely*; I easily may reply, to command *indefinitely*, and under a *disjunction* (to speak properly) is no more to command, than to say that the picture of a man, is a man; This *disjunctive Law* therefore (as I have said) is *purely penal*, which is manifest by the compared Form of the examples. For if the Law-maker shall put forth the Edict in this manner, *He who being elected shall refuse the Mayoralty, shall pay one hundred pound, or in this manner, being elected, either be Mayor, or pay one hundred pounds*, it is all one; There is, in both, the same sence, the same force of the words, and one & the same obligation.

XIV. In the fourth place, we are to know, that between an obligation to the *fault*, and an obligation to the *temporal punishment*, there is no ne-



*cessary Connexion*, or certainly not so necessary that it may be also reciprocal; There is a necessary Consequence indeed from a *Temporal punishment* properly so called, to the *fault*; And this Argument therefore is of force, *Peter* is to be punished by the Law, therefore *Peter* hath committed a fault; But from a temporal punishment, properly so called, suppose any damage or the like, the fault is not necessarily inferred; For a man without any fault of at all his own may be obliged to a losse, as already we have said. Neither is the Consequence *reciprocal* from the fault to the temporal punishment; For it may so come to passe, that a man may be obliged to the fault, and yet not be obliged to the punishment, I mean a temporal punishment, for the account is far otherwise of the *Spiritual* and *Eternal punishment*. For examples sake, suppose a man hath committed a fault, as he hath told a lye, or betrayed the secrets of his friend, or hath privately detracted from the good name of his Neighbour, for which the Laws of men do appoint no punishment, he therefore cannot be punished by man with any temporal punishment, neither is it necessary that God should temporally afflict him. But that no man may too boldly flatter himself, & assume unto himself hereby a greater liberty of sinning, because he thinks himself free from temporal punishment, he ought duly to call to mind, that he is nevertheless obliged to a far more grievous punishment, which is a *Spiritual*, and an *Eternal punishment*, Both which punishments are so necessarily, and so reciprocally conjoynd with every fault, that the punishment doth alwayes presuppose a fault going before it ( for God punisheth no man that deserves

it not ) and at the last the deserved punishment must necessarily follow the fault, unless it be prevented by the mercy of God remitting the fault in Christ by Faith, and by Repentance.

XV. These things thus premised, to answer to the propounded *Doubt*, I will inferre some Conclusions; And in the first place we must judge, How the penal Law doth oblige the Subject in Conscience by the mind and Intention of the Law-maker, If it be manifest that there is any certainty of it, that is, if it be certain that the Law-maker did intend to oblige the Subjects, not only to the *penalty*, but to the fault also, they are undoubtedly obliged to observe that which is commanded by the Law, and do not satisfie their Duty if they are prepared to undergo the Penalty ordained by the Law; But if it be manifest that he intended not to oblige them, but only to the Penalty, it is certain that the Subjects are not bound beyond that Penalty. The Reason is, because the Foundation or Ground of the Obligation of the Law (as elsewhere is shewed) is the manifested will of the Law-maker invested with a Lawful power, Therefore where the Will of the Law-maker which is the *adequate Measure* of that Obligation which the Law induceth, is manifest; we need not to make any further doubt concerning the extent of the Obligation.

XVI. Peradventure, you will demand, what assurance may suffice, that a Subject may be secure in his Conscience, that sufficiently he understands the mind, and intention of the Law-maker? I answer, that a *mathematical certitude*, which is manifest by Demonstration, and impossible to be false, is in vain to be expected in *morals*, by reason of the in-

finite variety of Circumstances, and uncertainty of Humane affairs, nevertheless a certain *logical* certitude may oftentimes be had of the Intention of the Law-maker, which is to be collected from the words of the Law it self, from which, his Intention may so perspicuously appear, that there needeth not any further Evidence. The mind of the Legislato<sup>r</sup> may be manifested, partly by the form and manner of the Precept he enjoyneth, and partly by the greatness of the Punishment that is to be inflicted, but especially from the Preface of the Law it self, in which that it may be more acceptable to the people, he useth to declare the causes and reasons that do induce him to the making of that Law, as also how just it is, and necessary for the taking away of abuses, and for the advantage of the Common-wealth; From all which being rightly weighed together by comparing of the circumstances, it will be no great difficulty for a wise and apprehensive man, so to learn the meaning and intention of the Lawgiver, and to have such a sufficient *moral* certitude thereof, (for in morals, a moral certitude is sufficient) as to conclude, that undoubtedly he intended such a thing in the making of it; But if the Subject be not of so great an apprehension and Judgment, as duly to examine all the importances of the reasons, or if he be afraid (since every man is not a Competent Judge in his own Cause) lest he might interpret the mind of the Law-giver more favourably on his side than he ought to do, it would be his best course (if it be a business of so great Importance, that it will be very uncommodious or troublesome to him to observe that which by Law is commanded) to addressse himself to some man of approved

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Piety and Prudence, and plainly, and sincerely to declare his mind unto him, and to acquiesce in his opinion, and his judgment.

XVII. But because it may be, and oftentimes it so comes to passe, that after all diligence there can be obtained but little certainty of the mind of the Law-maker from the Law it self, or not so much as the Conscience of a good man may safely acquiesce therein; We must seek further in so doubtfull a case, & examine what interpretation we are to follow in so doubtfull a case, whether that which is the more large & favourable, as many will have it, or as others, the stricter interpretation; *Martin Navar* a man of great authority amongst the Canonists, is said to be of an opinion, that he thought no penal Law did oblige to the *fault*, by it self, but only to the *penalty*. Other Authors have been of another judgment, and have taught, that every penal Law, unless by the mind of the Law-maker it was manifest to the contrary, did oblige to the fault also. I must confess that the *extremes* of both opinions have been always suspected by me, & it may so come to pass, that as some have spoken too favourably, so others too severely. That therefore in a thing so dubious we may have something to follow which is certain, let this be the second Conclusion, *A Law purely penal, doth by it self, and ordinarily, oblige only unto the penalty, and not unto the fault.* I say in the first place a Law purely penal, whether it be categorically taken or disjunctively. I say in the second place, by it self, for by accident, and by the supposition of a former obligation, it may oblige to the *fault* also; for a penal Law is made to that end, that Subjects by fear of punishment be compelled

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to their Duties, to which they were bound before by a former Law, *divine, natural, or humane*, so those penal Laws (he that killeth a man let him suffer the pains of Death; He that transporteth Merchandize beyond the Seas, let him either pay the Custom, or lose his Merchandize) do oblige to the fault, so that whosoever shall undergo the punishment shall not clear his Conscience thereby, unless he shall obey the precept of the Law, but they do not bind so, *by themselves* and by *their own virtue*, but by the force of a precedent obligation that taketh its rise from the command of a former Law. For the Subject was obliged before that Law (according to our supposition,) was made, both by the Law of God not to commit murder, and by the Law of his Country to pay customes, and taxes. I say in the third place, *Ordinarily*, because it may be done *extraordinarily*, the present state and condition of things so requiring, so that what otherwise was free; and might be omitted, may in an exigence fall out so necessary to be done, that he may offend, and fail in his office if he doth not do it, but *ordinarily*, these extraordinary cases being excepted, he who is prepared to undergo the punishment imposed by the Law, is no further bound by that Law, if the Law be purely penal.

XVIII. The reason of the whole Conclusion is, because the maker of Lawes doth not oblige but by commanding, and therefore a *simple ordination* which commandeth nothing doth no more oblige of it self, than the Counsel of a friend, or the exhortation of a grave man; For as he who giveth Counsel to another, or doth exhort him to do *this* or *that*, doth declare what it is that he desireth him

to do, but doth neither oblige him to it, nor intend to oblige him: so a *Legislator* in that Law in which he commandeth not any thing of the Subject, but only shews him what he would have him to act, under the Condition of a proposed punishment, is to be presumed not to have a will to oblige him further, but only to the penalty he proposed; For if he had an Intention to oblige him to the fault also, it had been most easy for him by adding a command to signify his intention so unto him. Therefore seeing that a simple and bare ordination doth not of it self oblige unto the fault, and the addition of a *temporal penalty* cannot of it self oblige but only to the undergoing of the *temporal penalty*, it is manifest, that a Law purely penal, which containeth nothing in it self besides a bare ordination and temporal penalty annexed to it, neither of which is obligatory to the fault, cannot of it self oblige unto the fault, but unto the punishment also. And the same is to be spoken of those Laws which are called *conventional*, which example I the more willingly do use, because it serveth not only to confirm, but excellently to illustrate our Conclusion. To which also may be added the will of the Testator, and many other things, which as to the power of obligation are all of a like nature. The Inhabitants of some Town, who have not the power to make Laws, properly so called, do yet in the Court of the Lord of the Mannor (for so they term it) debate and agree amongst themselves concerning some things conducing to the keeping of peace and justice amongst their Neighbours, and under the name of penalty, a pecuniary mulct is imposed on those who shall violate the agreement, these conventions are called the  
Laws

*Laws of the Inhabitants*, and in our own language *BY LAWS*, for learned men and skilful in antiquity, do note that in the antient language of the Saxons, the monosyllable *BY*, doth signifie a habitation; We with many others, for informations sake, do call these Laws *conventional Laws*, for although they be contracts only, and conventions amongst private persons, and so speak properly, not Laws, by reason of the defect of the publick Authority, yet they are commonly called Laws, by reason of the Analogy which they have with Laws properly so called, and as to those two effects of the Laws, of *directing* and *obliging*; for as the Lawes do direct the Subjects, so those Conventions do direct the Persons consenting in the acting, and do oblige them to the performance of what they are to act, and certain it is, that in these Conventions the persons contracting did not intend mutually to oblige themselves to the *Fault*, but only to the Penalty; For Example sake, The *Inhabitants* of some village do agree amongst themselves, that the Masters of every Family in that village shall every year in the Month of *May* work in their own persons three days for the repairing of the Highways, and they who shall not do so, (suppose here that every days work is valued at ten pence) shall have a *mulct* upon them to pay twenty pence; It is certain by this conventional Law, that the persons who did contract it, did chiefly intend the yearly repairing of the High-ways, & moreover they willed, that every Master of his Family should labour in his own person for so profitable a work, otherwise they would not agree upon a mulct, that they who refused should pay as much again as the days work came

came unto; And as certain it is on the other side,  
 that they intended not mutually to oblige them  
 selves any further than to the paying of the im-  
 posed ~~and it~~, if any one of them either by the reason  
 of other employments could not, or upon any o-  
 ther pretences whatsoever, would not in his own  
 person perform that work. So in Wills and Testa-  
 ments (for Testaments are as a Law also, <sup>Imperia</sup>  
 both to direct and to oblige the Executors <sup>mortuo-</sup>  
 and those that are to receive the Legacies.) <sup>rum.</sup> *Caius* Senec. 3.  
 willeth that his wife *Cia*, while she remaineth a <sup>Contr. v.</sup>  
 Widdow, shall retain the houses with the adjacent <sup>a9.</sup>  
 lands which he bought of *Titius*, but if she marryeth <sup>Legatum</sup>  
 she is to lose them, It is manifest, that it is the Will <sup>est quod</sup>  
 of *Caius*, that his wife should remain a widdow, and <sup>legis modo</sup>  
 should not marry again, for in that Intention he <sup>testamento</sup>  
 annexed that Condition by the fear of the Dam- <sup>relinqui-</sup>  
 mage to deterre his wife from a second Mariage, <sup>sur. VLV.</sup>  
 And by inserting that Condition, he intended not, <sup>Institu.</sup>  
 and indeed could not intend to oblige his wife to <sup>Cap.</sup>  
 the Fault, as to have offended if she should have  
 married another Husband.

XIX. But you will allege, Agreements do ob-  
 lige, and Wills and Testaments do oblige to the  
 fault, for he offendeth who standeth not to the A-  
 greement he hath made, And those offend who do  
 otherwise than by the will of the Dead is ordered;  
 I answer, that the Case is far different to violate  
 Contracts, Laws, or the Wills of the Dead, and  
 to infringe the will of a Legislator, or a Testator  
 made under a Condition; How great the difference  
 is, the Examples which before we have produced  
 will best of all inform us. He doth not presently  
 transgresse against that conventional Law of work-



ing for three days under a pecuniary Mulct, who refuseth to work, unlesse he refuseth also to pay the Mulct; For he stands to what was agreed upon, if he performeth either, and that also according to the intention of those who made the agreement, who intended indeed mutually to oblige themselves to the performance of that work, but not simply & absolutely, but under the condition above specified; So in that *Testamentary Law* of *Caius* marrying another Husband, *Caius* being dead, she offendeth not by marrying, although it be certain that the Testator had rather, and indeed willed (for he who *had rather, willeth*) that she should not marry, yet notwithstanding she should undoubtedly offend if being now married unto another, she should still retain the Lands and Houses upon such a condition bequeathed to her in the Will, and should not restore them to the Heir. The reason of both the examples is the same, because in both of them the obligation was not *pure, simple, and absolute*, but only *conditional*; For always a condition of its own nature, doth suspend the obligation, so that the condition being kept, the obligation immediately, as if the Bonds were loosed, doth fall to the Ground. The Case is the very same in Laws that are purely penal, as to the *manner*, and *measure of obliging*, which they will easily understand who have the will and the leisure to compare these considerations amongst themselves, so that we need not any longer to insist in the explication of them.

XX. But peradventure some one may yet instance, that no man can be obliged to the *Punishment*, but he must be obliged to the *Fault* also, for a *Penalty* cannot justly be imposed on any, unless

less for some antecedent *Fault*, according to that of *St. Augustin*, *Omnis poena si justa est, peccati poena est*; Every punishment, if it be just, is the punishment of some sin. The second objection is derived from the Nature of the Law, they urge, which is to command something, therefore that Law which we have said is purely penal, hath not the Nature of a Law if it commands nothing, or if implicitly at least it containeth some Command, it must also oblige unto the *Fault*, for a fault is nothing else but a Transgression or a Violation of a just Command.

XXI. To the first objection we may answer several ways, For in the first place it may truly be said, that indeed *eternal Punishment* as it is under the absolute Notion of Punishment, and cannot otherwise be considered but in the true Nature of Punishment, must therefore necessarily suppose some antecedent fault which hath deserved it, and for which without any other respect whatsoever, he who is guilty of that Fault, is afflicted with the Punishment, but there is not the same consideration in all *spiritual Punishments*, much more in *temporal Punishments*; For although both of them as it is a Punishment, doth suppose some precedent fault worthy of such a Punishment, for otherwise it would not be just, yet because they may be otherwise considered, than under the bare notion of a punishment, viz. In respect to the *End* intended by the party punishing (that is, not so much as ordained to revenge a fault past, as to prevent a fault to come) it comes thereupon to passe, that neither God himself when he afflicts a man either with a spiritual or a temporal punishment, neither man when he inflicts upon a man a temporal

ral punishment, doth always precisely respect their Sins or offences, but very often they do propound other ends unto themselves. To this purpose belongeth that answer of our Saviour, when his Disciples asked him concerning the blind man, whether it were for his Sins, or his Fathers that he was born blind? *Joh. 9. 3.* His answer was, that neither his Sins, nor his Fathers were the occasion of his blindness, *but that the works of God might be manifested in him;* The reason is, because in morals, the Estimation of things, and the Denomination of them, is taken rather from the *final*, than from the *efficient*, and *meritorious Cause*.

XXII. Secondly, it may be said, that the relation of a *temporal punishment* to a Sin, doth properly consist only in that punishment which *relatively* is opposed to the Sin, and not in that punishment which only *contrarily* is opposed to it, which is the looser and more improper signification of the word. We have heretofore made use of this distinction, and explained it in the second *Præcognitione* to this Doubt, therefore there needs no repetition of it; It may suffice to put you in mind, that the punishment affixed to the Law that is purely *penal*, is not called a punishment, *strictly*, and *properly*, but *improperly*, and more *largely*, as it signifies another kind of *Evil*, diverse from the *Evil* of the *Fault*, which kind of punishment may be inflicted on a person without any legal injustice, and for a *profitable end*, as to avoid some publick Inconvenience, without the delinquency of the person suffering, for the word *punishment* so taken doth contain all *losses*, *misfortunes*, or *adversities*, or whatsoever befalls a man which he

desireth

desireth might never have to come to pass.

XXIII. If these things shall not satisfie the Reader, yet this will be very remarkable which here in the third place I shall propound unto you, and which will quite remove all this Doubt, and very aptly meet with another objection, which is, that the Intent of a penal Law (of which we now speak) being to *oblige the Subject*, and yet but *conditionally* to oblige him, may be considered two or three ways; First, precisely, as to *that to which* it intendeth to oblige under such a condition to be done. Secondly, as precisely to the condition it self, by which it intendeth to oblige, the one whereof containeth the ordination of the Law, and the other the punishment annexed to it. Thirdly, as to the whole *aggregate*, that is the whole Law it self, which at once consisteth of the complexion of them both. This distinction being laid down, I say in the first place, that that part of the Law which containeth only the condition or the punishment doth not of it self oblige *unto the fault*, for a bare condition is of no prevalence, as all do grant, and it is manifest of it self; He doth not therefore transgress, nay rather he very well performs his office, who avoids the penalty of the Law, provided he performeth that which the Law ordaineth. Secondly, I affirm, that that part of the Law which contains the ordination, doth not of it self oblige *unto the fault*, for no Law obligeth beyond the intention of the Law-giver, & certain it is, that the *Legislator* by that part of the Law did not intend, *per se* or *by it self*, to oblige the Subject *to the fault*, for then it had intended to have *obliged him simply*, & that part, taken *precisely* and by it self, doth contain



- no condition in it; but by the condition of the Law added in the other part, it is manifest that he did not intend *simply to oblige* to the doing of *that* which the Law ordaineth, but under a condition in that Law expressed. I say thirdly, that a *penal Law* taken *wholy* and *joynly* doth oblige to the *Fault*; in this sense, that he is guilty of the Fault, and sinneth against the Law, who when he ought to observe both parts, performeth neither; For as amongst *Logicians*, the truth of a disjunctive proposition depends upon the truth of some one part of it, so that it is all of it *true*, if either of the parts of it be *true*, and not false unless both parts of it be false; So in *morals*, he observeth a disjunctive Law (and every Law *purely penal* is *disjunctive*, or *formally*, or *equivalently*,) who performeth one of the two parts propounded, and he doth not violate the Law, unless he doth neglect them both.

XXIV. This which was to be spoken of the obligation of a Law *purely penal*, being as I conceive sufficiently unfolded, let us now passe to the consideration of a *penal Law mixed*; Concerning which I make this my third conclusion; A *penal Law mixed* (to wit, which openly commandeth something to be observed, and that it more diligently may be performed which is commanded, doth appoint a penalty to the transgressors) doth oblige both to the *fault*, and to the *punishment*, insomuch that he neither satisfies the Law, nor his *Conscience*, who undergoes the punishment, unless he doth perform that also which is commanded by the Law. There is none can doubt that such a Law doth oblige to the *punishment*,  
for

for otherwise of what use would the punishment be that is added to it; And it is manifest that it obligeth to the *fault*, because it containeth a manifest command; And every command obligeth to the *fault*. For a Fault, or a Sin, is nothing else but the transgression of some precept, 1 *Joh.*

3. Neither can that be probably spoken, which is said to be the opinion of *Navarr*, that the Law-maker by inserting the punishment, doth signify, that he hath no intention of obliging, but only to that *punishment* which is annexed. Observe I pray you, how perverse it is, so to interpret the appointing of a punishment, which it is certain is for that end annexed to the precept, that the said precept by the fear of punishment, might more diligently, and more accurately be observed, as to make weak, and take away the obligation of the said precept. Numberlesse are the Laws which throughout the world are made against Thieves, Murderers, perjured Persons, and other wicked and nefarious people; God also gave a Law to our first Parents, by which he forbid them to eat of the fruit of the Tree which was in the midst of Paradise, having annexed to the prohibition, the punishment of death, if they should eat thereof; *Gen.* 2. Can any man be found so destitute of reason as to think that *Adam* was obliged by this Divine Law, and that others are obliged by *Humane Laws*, to the *punishment* only, and not unto the *fault*? Who will affirm (to omit humane Laws) that *Adam* was not obliged in Conscience by that Divine Law to abstain from the forbidden fruit, but to this only, that if he did eat thereof, he should be ready to undergoe the sentence of

death? The opinion therefore of *Navarre* being exploded as dangerous, and by all men confuted, (if indeed the opinion was his, which I shall hardly believe, he being a man of so reverend a fame) we are to affirm, that a penal Law mixed, being both penal, and preceptive, doth oblige both to the punishment, and to the Fault, to the punishment as it is penal, and to the Fault as it is preceptive.

- XXV. The third Doubt remaineth; How, and how far the transgressor of a penal Law is bound to undergoe the punishment in the fact it self that is appointed by the Law? I must make haste, I will therefore be as short as I can; I say therefore in the first place, if the punishment appointed by the Law be such that it imposeth nor any thing upon the transgressor to be either done or suffered by him, but consisteth rather in an *inability* to do something which was commodious for him to do, or in an incapacity of receiving something which would be profitable for him, he is guilty of the Law so violated, and is bound *ipso facto* to undergo the punishment. There are many Laws which do forbid transgressors, to do this or that, as the Civil Laws for certain causes do forbid *translationem Domini*, the alteration of power or free-holds; There are also many Laws which for such a certain time, do make Delinquents incapable of such a place, or dignity: As if a Disturber of the peace, by a statute of the University, be prohibited to have his *Grace* propounded in the Congregation House for the space of two years after the fault committed; In such & the like cases, where the punishment consisteth only in the *Inability*, or the *Incapacity*, because to undergoe this punishment there is no *Cooperation* required of the person to be punish

punished, but rather a certain Cessation of *operating*, He who hath violated the Law, is obliged willingly to suffer the punishment, although he be not required; I say in the second place, if the punishment appointed by the Law be such, that a *cooperation* of the person offending be necessarily required to the Execution of the Law, that is, that he who is to be punished is to act something himself in his own punishment, he is not obliged *ordinarily* to undergoe the said punishment *ipso facto*, before the Judge hath pronounced the sentence, or which is the same, before the punishment be exacted of him, by a person to that purpose invested with lawful Authority; The guilty person is bound indeed to suffer the punishment, but if he called to it, otherwise he is not bound. I say in the third place, that a guilty man, after the sentence pronounced by the Judge, or after he is required to it by a person invested with lawful Authority, is obliged to a willing undergoing of the punishment, yea, and with some Cooperation of his own, if this Cooperation be not against the Laws of humanity, though otherwise very grievous, and extremely painful. For examples sake, If an offender be commanded to pay a great sum of money, under the name of penalty, or to depart the Kingdome, he is bound by the power of the Law to the performance of it: but if the punishment imposed be not only grievous, but something also that is inhumane, as if a malefactor be commanded to scourge himself, to cut off his own hand, to drinke poyson, or the like, in these cases the guilty person is obliged to undergoe the punishment.

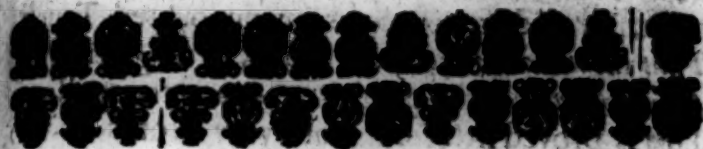


punishment *passively*, but he is not obliged *actively* to cooperate in it, wch. he knows to be ordained by the Law, and which by his default he hath deserved; And let this suffice to be spoken of the necessity of the Promulgation of Laws, and of the Obligation of those *penal Laws* which may seem to have any reference with the Formal Cause of Laws.

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THE



THE  
NINTH LECTURE  
Of the Obligation of Humane Laws;  
in respect of the Final Cause  
thereof.

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1 TIM. 2. 2.

*For Kings, and for all that are in Authority,  
that we may lead a quiet and peaceable life in  
all Godliness and Honesty.*

**I**N our former Lectures we have  
treated of the Obligation of  
*Humane Laws*, as to their *Ma-*  
*terial*, *Efficient*, and *formal*  
*Causes*, in some places perad-  
venture more largely, and in  
others again peradventure more  
concisely than was requisite; It remaineth, that we should  
proceed to the explication of those things which  
do pertain to the *final Cause* of Laws; But before  
X4 we

- we do come to dissolve these doubts, we are first to premise, and pronounce as an undoubted Truth, *That the ultimate end of the Laws, is the good of the Commonalty*, or the publick peace and tranquillity; This is proved first from those very words of the Apostle, *that we may live a quiet & a peaceable life*. The Apostle doth here exhort, that both privately, but especially in publick Congregations (for so I conceive this place to be understood, and the best Interpreters are of the same opinion with me) Requests, Prayers, and Supplications, with thanksgivings, may be made, as first for all men in general, out of Charity, and in order to a Spiritual end, *viz.* Eternal happiness in the life to come, as they are men, and either in *Act*, or in *Power*, Members of the mystical Body of Christ, so more especially for Kings and others invested with supreme Authority, and this out of Prudence, and in order to a Temporal end, to wit, external felicity in this present life, as they are the chief Members of the *body politicks*, from whose legislative, and executive power, accordingly as they have administred it, whether rightly or unjustly, either the chief happiness, or unhappiness of the rest of the Members, and by consequence of the whole Body, doth depend; *Therefore the making of Laws being the chief Act of the supreme political Jurisdiction*, that which is the supreme End of that supreme Jurisdiction, is also the supreme End of the making of Laws, to wit, the good of the Commonalty; It is proved secondly, from the Nature of the End, as by a Demonstration *a priori*; That, in its order, is the *ultimate End* of every thing, to which all the *Acts* of

of that thing are reduced, as to their first regula-  
 tive principle, and to which they are referred as to  
 that for whose sake they are ultimately ordained,  
 Therefore the Final Cause is commonly called by  
 Aristotle *That for which*; But all the Acts of Laws,  
 are regulated by the *Common good*, as by their  
 first Rule and Principle, and are referred to the  
*Common good*, as to that for whose sake they are  
 made, as may appear by running over the several  
 Acts, Therefore, &c. For wherefore are good  
 things commanded, or evil ones forbidden, and  
 things indifferent, and of a middle Nature per-  
 mitted? Or wherefore are Rewards decreed to  
 men that have deserved well of the Common-  
 wealth? or wherefore are punishments appointed  
 to the Violators of Laws? or wherefore are the  
 Laws in the Courts indifferently pleaded unto  
 both? of which those are the first Acts of  
 Laws, and by the way of *Form*, and the other  
 more remote, and by the way of *Effect*; Is it not for  
 that end, that the Common-wealth may flourish in  
 peace and safety, and that private men according  
 to their measure and degrees, may partake, rejoyce,  
 in the publick happineſſe, in a word, that they  
 may be all inservient to the *Common good*? Thirdly,  
 it is proved *a posteriori*, from the *posterior*, by the  
 ſence and consent of all men; For the Law-makers  
 who do decree juſt judgements, do indeed appear,  
 and thoſe who meditate on *Evil* as a *Law*,  
 do notwithstanding deſire to ſeem to have an Eye  
 to the *Common good* and profit in the making of  
 their Laws, and to prefer the publick intereſt a-  
 bove their own; Whether they ſincerely intend,  
 or craftily pretend, they all profeſſe that in  
 the making of their Laws, their chiefſt In-  
 tention

Οὐ νομο-  
 θήται δι-  
 χαιον ἴσ-  
 ται παρὰ τὴν  
 κοινὴν ὅλην  
 πόλιν.  
 Arist. 8.  
 Ethic. 11.



tention was the publick Good.

II. This foundation of the present discourse being laid, to wit, That the End of Laws is the good of the Common-wealth, I proceed to the *Doubts*, whereof let this be the first, Whether there be any necessary use at least of Humane Laws? And indeed we should not have needed to have made any *Doubt* of it, did not the mad errors of the Anabaptists, and some others of their faction, make this businesse for us, from whose Principles, seeing they affirm, it is not lawful for a man that is a Christian to be a Magistrate, or to contend by war, or by sutes in Law, to swear, or to administer an oath to any one, it seems to follow, that there is no need at all of Humane Laws; For take away but Jurisdiction, there will be no man to make Laws, and take away the Seats, and Courts of Justice, there will be no man that will fear them. What need sad complaints, if the offence be not redressed by punishment, what will vain Laws profit without the execution of them? The Directive power of the Law must of necessity fall unto the ground, if the Coactive power doth not assist it. The reason of this Doubt is, for the Law of Nature may suffice to leave the Gentiles inexcusable, which dictates to them to eschew all Sins, and trespasses, to injure no man, and the like; But if that be defective, the Christian hath at hand a more sublime, and a more perfect Law, to wit, the Law of Faith, Justice, and Charity, made by our Saviour Jesus Christ, James. 4. whom St. James acknowledgeth to be the only  
12. Judge and Law-giver. This place in my Judgment, doth neerly touch our Innovatours, who have derived and drawn most of their opinion from

from the unclean wells of the Anabaptists, whilst they collect from that place of the Apostle, that it is lawful for no man besides Christ alone to make Ecclesiastical Laws, for it no wayes appeareth either by the force of the words, or by the scope and order of the whole *perioch*, that the Apostle hath spoke more there of *Ecclesiastical Laws*, then of *Civil*; And unless they had rather deal *unfaithfully* and *deceitfully* with us, than be ruled by reason, they must do one of these two things, which they please, either turn absolute Anabaptists, and take away altogether from mankind all the power of making Laws, or grant unto supreme Magistrates, as it is fit they should, the power of making Ecclesiastical Laws.

III. But how these our Brethren can disintangle themselves from the snares of the Anabaptists, it doth not much concern us, let them look unto it themselves; We easily do answer, that the Law of Nature is written in our hearts, and the Law of Christ is revealed in the Gospel, and that both of them in their kind are most perfect, but so, that for all that, it is most manifest that the profit of humane Lawes is very great, and their use as necessary. Because those divine Laws do contain only *general Principles* of things to be done, From which, as *Conclusions* from their *Principles*, more *special Rules* are to be deduced, accommodated to the right Institution of *publick Societies*, &c of the manners of single persons. Neither is it any way so be feared that it may derogate at all from the perfection of the Law of God; For the makers of humane Laws do not go about to add any new stock to the most rich Treasure of the divine Law, but they rather take from thence what they judge most  
profit

profitable to themselves, and to their people, and the good of the Common-wealth; Humane Laws therefore, if they are just, are nothing else but the Relicts of the Law of God, that is, particular determinations of the *general Rules* which the Law of Nature, and the word of God have exhibited indeterminatly, wisely accommodated to the Condition & Utility of certain people, according to the consideration of Times, and Places. For Examples sake, The Law of Nature doth teach in general, that we are to offer an Injury to no man, and he who doth so is bound to make restitution; but to descend to the specialty, what injury he hath done unto his neighbour who hath broke down the Hedge, and let in his Cattel into his Grounds, and what is the restitution to be made for such an Injury, is not determined by the Law of Nature, but by the Civil Law; And the Scripture doth openly hold forth, that wicked men are to be punished by the Magistrate. *Rom. 13. 4.* and in other places; But what kind of wickednesse the Magistrate is to punish, what punishment to afflict, and after what proportion, is no where defined in the Law of God; Power being transmitted to Princes & Law-makers, by God, to define of themselves, by Laws well constituted, what according to their wisdom they shall find most safe and profitable to the Common-wealth; The Rights therefore and the Laws of God, and of a Legislator, and a Judge, are distinct, and proper to themselves, and disposed in so excellent an order, that the Precepts and Commandments of God, which are general, and indeterminate, are by the Law-maker determined, and accommodated to certain Species of persons, and actions, and being so determined

terminated by the Laws, the Judge doth effectually apply them to the particular causes of persons, & actions; so that if a Legislator should make a Law which is not complacent to the Law of God, he is to be adjudged to have made an unrighteous Law, and if a Judge in any particular Cause shall pronounce Sentence which is not congruous to the Law constituted by the Prince, he is to be judged himself to have pronounced an unjust Sentence.

IV The second Doubt is, whether a Law-maker be obliged, if possibly he can effect it, to command all the acts, and offices of all Virtues, and to forbid all Sins of whatsoever nature they are, or if he cannot all, whether he be bound to command and forbid as many of both kinds as possibly he can? The Reason of the Doubt is, because there is nothing more conducing to the proper end of the Law, which is the *common good*, than as much as possibly may be, that all the Citizens may be good, and none of them evil. Therefore it is the part of a Law-maker, who always is to have before his eyes this end which is the common good, to take all possible care he can, to command the practice of all *Acts* of all Virtues, that so all his Citizens may be good, & to forbid all Sins whatsoever, that there be no unrighteousness amongst them; and the two chief of the Apostles doe seem to require this of the political Magistrate, *Rom. 13. 3, 4.* St. Paul hath these words, *Do good and thou shalt have Praise, but if thou dost evil, fear, for the Magistrate is a revenger to execute wrath on him that doth evil*, that is, on him who doth any manner of evil; And St. Peter in his first Epistle, second Chapter, and fourteenth verse *οὗτος ἐστὶν ὁ ἀρχὴν μὲν κακοποιῶν, ὕψιστος*



for the punishment of evil-doers, but the Praise of them that do well, that is, of all well-doers, and of all evil-doers; For that which is pronounced indefinitely is equipollent to an universal. & it is consonant to the Rule of the Logicians, (in a necessary matter) and to the will of God, who forbiddeth the Magistrate the acceptation of Persons.

V. For answer, I say first, and generally that the Law-maker is bound to use his utmost Indevour that his Citizens be all of them good men, and none of them evil, and by consequence to command all Acts of Vertues, and to forbid all Vices so far, as the Reason of the *Beginning from whom*, and the *End for which* he worketh, doth require, but beyond that he hath no obligation at all; For the *Beginning* and the *End* in the operations of all, work they naturally, or work they freely, are the adequate measure of all *Intermedial Acts*, so far as those Acts are proportionate, & conformable, with the *Beginning* from whence they proceed, & with the *End* to which they tend. The Acts therefore of *Commanding* and *Forbidding*, and others in which the Exercise of the *legislative Jurisdiction* doth consist, must be proportionated both to their *Beginning* in whose Vertue they are done, to wit, the Higher Powers granted by God, and to their *End* for whose sake they are done, to wit, the *Common Good*. A Law-maker therefore ought so far to *command*, *prohibit*, *permit*, and to perform all other Duties, as they are agreeable to the power granted to him by God, and is expedient for the Commonalty which God hath committed to his charge.

VI. But these considerations are general, and indefinite; To satisfy therefore the *Doubt* propounded, we must descend to something which is more particular, but which howsoever may rely on this general foundation. I say therefore in the second place, the *acts* of Virtues and Vices, some of them being internal, of which nature are the freer *acts* of the *Will*, as *to will* and not *to will*, and the movings of the affections, to love, to hate, to grieve, and if there be any other cogitations, and intentions of the heart, and mind; and some of them being external, of which sort are all the commanded *acts* of the will, and the indeliberate motions of the affections, which are exercised by *bodily Organs*, as *to see*, *to speak*, *to strike*, *to plunder*, and innumerable others; the Legislative power is only exercised on the *outward acts*, but not on the *inward*. A Law-maker may therefore command the payment of a debt, the restitution of stolen goods, and the outward worship of God; He also may forbid Theft, Adultery, Manslaughter, Blasphemy, and the like; But he cannot command the loving of his Neighbour, the confidence to be had in God, the contempt of the world, nor prohibit the coveting of his Neighbours goods, unchast cogitations, the hate of his Neighbour, and the Atheism of the heart. The reason is, because to determine of internal actions is neither proportionate to the *beginning from which*, nor to the *end for which* the Legislator worketh; For Almighty God hath only permitted to the Magistrate the Government of the *external man*, and hath reserved to himself alone the knowledge and judgment of the *inward actions*, and the inspection into the hearts of men; for the

*Legis-*

- Legislator* and the *Judge* is the same, as we have already proved by the testimony of *St. James*, and the *Legislative* power would be altogether ineffectual to obtain its proposed end if it were only *directive* and *coactive*. First therefore, seeing an external Court cannot understand, nor judge of inward actions; And secondly, seeing it were a vain thing to command or prohibit that by a Law which when it is committed we are not able to punish; And thirdly, seeing the external operation of good works, and the external declination of evil ones doth suffice to the outward felicity of a Republick, it followeth, that a *Legislator*, or a *Law-maker*, neither wisely can, nor rightly ought, either to command, or to forbid the internal actions of *Virtues* or *Vices*. In which regard, as in many others, the Law of *God* and *Christ* which requireth Truth, Purity, Sincerity, in the inward parts, and restraineth and checketh the highest and first inordinate motions of the Will, and punisheth as well Sins thought on, as Sins committed, doth most infinitely excell the most excellent Laws of men; And therefore *David* in the 19 *Psalms* saith, that the Law of *God* is perfect and undefiled, and the Law of *Christ*, is as the maker of it is described to be in the fourth of *Hebrews*, *A word lively and mighty in operation, and sharper than a two-edged sword, and entreth through, even to the dividing asunder of of the heart and Spirit, and of the Joynts and Marrow, and is a Discerner of the thoughts and intention of the hearts.*

VII. I say in the third place, , that *Humane* Laws may *de Jure*, or by *Right* command all the outward *Acts* of all *Virtues*, and forbid all the

the outward works of sin, but they cannot do it *de facto*. The Reason of the first member is, because there is no external Act of Vertue or of Vice; in the whole Nature, and in every Species of, it so disposed, but that the commanding or the forbidding of it (according to the Condition of *Affairs* and *Times*) may be *ordinated* to the *publick good*. Therefore not only the Acts of Justice, properly so called, (as some will have it) but the acts also of all other Vertues whatsoever may become the due object, and matter of the Law; And this I remember to be the observation also of *Aristotle*, and if I be not much mistaken, he giveth Instances of it in the Acts of *Fortitude* and *Temperance*; As if, by a military Law it were ordained, that none of the Souldiers should run from his Colours, or from his ingaging with the Enemy, or throw away his Arms, or as if, by another a Law of frugality, or moderation, the excess in banquetting were prohibited or as if, there were a Command that none should exceed in the bravery of his habit, or in the greatness of his retinue, or in the Ornaments of his House. The Reason of the latter member is, because there is so great a variety even of the *Species* themselves, much more of the *Degrees*, both of the Offices of Vertues and the *Acts* of Sin, that if the Law-makers should provide a Caution for every one of them, the very multitude of the Laws would be a burthen to the Common-wealth not to be endured.

VIII. I say in the fourth place, that a Law-maker is not obliged to *this*, viz. To forbid all the *evil* that he can forbid, or to command all the *good*: It will suffice, that the greatest and most remarkable of both



kinds are to be contained in the Laws, and which are so conjoynd with some extraordinary publick profit, that unless something were determined of them, there must necessarily follow some great and grievous Evil which would prove extremely incommodious to the Common-wealth; for amongst the lusts of the Flesh, the Allurements of the world, the temptations of the Devil, and the dispositions of men so fruitful of all manner of Iniquities, may we so much as dream of a *Platonick* or an *Eutopian* Commonwealth; we are to think we have done well enough, if we stick not too deep in the mire; For it is necessary that in every Common-wealth some evils should not be prohibited, but tolerated, and many good things not commanded, but left to every mans discretion, and that many things of both kinds should be passed by, by the Laws, lest being too unseasonably active to remove one evil, we peradventure make way for more and greater to arise.

IX. The third Doubt is, concerning the *Intention* of the Law-giver, *whether*, and *how far* it is required to the effect of obliging? Which is to demand, If a Prince, out of no foresight, or intent to Justice, or to the publick good at all, being either carried away by hatred, or ambition, and the meer lust or ruling, or by avarice, or any other depraved desire of an impotent mind, should give a Law to his Subjects, whether they are bound in Conscience to obey it? The answer is easy, they are obliged to obey it, if there be no other impediment, that is, if he who made the Law hath a lawful Power, and the Law it self be otherwise just, and according to the Law of the Nations duely debated, and sufficiently

sufficiently promulgated ; I say therefore in the first place , that as in *Artificials* , the End of the work, and of the person working, is not always the same; as in the building of a House , the End of the work ( that is of the House ) is that it may be a commodious habitation for the master of it ; but the End of the Carpenter is, that he may get some gain thereby ; Just so in a Common-wealth, it may come to passe , that the Law-maker may intend his own advantage, and yet the Law it self may tend to the publick Good.

X. Peradventure you will object, that an indirect End or Intention doth always corrupt the work , and therefore the evil Intention of the Law-maker doth vitiate the Law which was his work. To answer this objection , I say in the second place, that an evil intention doth always blemish the work as the work speaketh the *action* of the *person working* , but it doth not always blemish the work as it is the *effect of the operation*. These two therefore, the *Action* it self, and the *Perfection* of it, differ not a little amongst themselves, although they are commonly called by the same Name ; In the same manner as the *Effecting* and the *Effect* it self, The building of the House , and the House builded , are both of them called the work of the Carpenter , although the one of them is but an *action transient* , and the other, after the house is finished, an *action permanent*. A bad Intention therefore doth corrupt the work of the Lawmaker, *that is*, his own Act which makes the Law, and which for the defect of a good end is not without fault , but it corrupts not the work of the Legislator, that is the Law made by him, if that which is commanded by the Law is reducible to the

*Common good*, So, for all the evil intention of the Judge, a Sentence pronounced by him either for favour, or for hatred, is firm and valid, if the said sentence in it self considered, appeareth not to be unjust. For as rightly St. *Augustine* hath it, *potest ex libidine imperantis sine libidine obtemperari*, We may without any lust, obey the lust of the Commander.

XI. I say in the third place; Suppose that a Law be not only made with an evil intention, but unprofitable to the publick, nay in some sence obnoxious, yet the Subject is bound to obey it, provided it be made by just Authority, and the matter of the Law, or the thing commanded, be such that it may be done without Sin: The reason is, because every man ought to be careful and diligent in the performance of that which belongs to his own *Gal. 6.5.* part, and not too scrupulous of what concerns another; *For every man shall bear his own Burthen*. If a Law-giver shall be wanting in his Duty, what is that to you? Do you perform your Office howsoever; As for his intentions whether they be right or not, let himself look to it, for he must give to God an account of all his actions and intentions; And do you look to your self, for if you shall refuse to obey him, you shall give to the same God an account of your disobedience.

XII. The fourth Doubt, of the *Changing of Laws*, if they seem to be unprofitable or obnoxious to the Common-wealth; *whether, and how far* the Change of them is either to be attempted by the Prince, or to be required, and urged by the People? The reason of the *Doubt* in one respect is, because in a body Civil, as in a body natural, every change, especially if it be sudden and great, is danger-

dangerous, and on the other side, because it concerns the Common-wealth that the Laws be accommodated to the *Times* and *Customs*, and if the one doth change, that the other be changed with them; For answer to this, I say in the first place, it is certain that the Laws may be changed, yea, and sometimes that they ought to be changed, for they have heretofore been changed with great profit to the Common-wealth, therefore they may now be changed again, and may be so in all future times, if occasion shall require, & it shall be found profitable to the Commonwealth; And why may not that be lawful to be done again which hath been lawful heretofore? There are every day new emergencies, new inconveniencies, new evils, and if there are not new Laws made to redresse them, there will be no remedy. And all men saith *Aristotle* seek not

μεταβληθ  
πᾶσα φύση  
ἀκραιφνέως.  
Aristot. 4.  
Phys.  
text. 128.

ἐν τῷ παλαιῷ, ἀλλὰ τ' ἀγαθόν. And if heretofore it were expedient that a Law should be made because it was profitable to the Commonwealth, it being found afterwards by the change of the conditions of Times and manners to become unprofitable, why is it not expedient that it should be taken away again?

Arist. 2.  
Polit. 8.

XIII. I say in the second place; That the change of particular Laws is not without danger, and therefore not to be attempted unlesse it be upon some great and urgent necessity. *Aristotle* acutely and briefly as his custom is produceth divers reasons, 2. *Polit.* 8. These three are the chiefeſt, ἀδυναμία τοῦ νόμου, καὶ ἡ ἀντιθέσις, καὶ ἡ ἀντιθέσις. These often changes do very much derogate from the authority of the Law, and the Law-giver; As we conceive that person to be of a very slender and weak judgement, who for no sound or evident reason, is easily induced to change his Opi-



nion. Secondly τὸ ἰθὺζον ἐν χαρᾷ αἰὼν τῆς νόμου, Παύ-  
 λον, It maketh the people wanton and petulant  
 ( This is true enough, we not long since have had  
 the experience of it ) and apt to fly at any thing, if  
 they shall find their Law-giver easy on this ac-  
 count, and departing from his own right to hu-  
 mour the Votes and unsatisfied desires of the peo-  
 ple ; Therefore the chief Philosopher most grave-  
 ly and deservedly doth reprove the Law of *Hippo-  
 damus* a Law-maker of *Miletum*, viz. *That who-  
 soever had discovered or found out something pro-  
 fitable to the City, should be recompenced for his  
 good service, with a publick reward.* This Law  
 was specious enough at the first sight, and plausible  
 to the people, but look thoroughly into it, and you  
 will find nothing in it either of *prudence*, or *safety*,  
 or *Advantage* ; For what could be found more  
 dangerous to disturb the publick Peace, than that  
 factious men and of a turbulent and cunning Spirit,  
 under the shaddow of a publick good, should not on-  
 ly occasion the subversion of the Laws, but also call  
 in question the *Form* of the whole *Civil Govern-  
 ment*, and obtrude unto the State a new *Idea* of  
 Government, according to the humour of their  
 own Invention. Do you hear, I beseech you, a  
 Philosopher famous in his times, or rather a Pro-  
 phet, and a foreteller of the manners, and the times  
 in which now we live ? Thirdly the Innovation of  
 Laws being ordained for the removing of some pre-  
 sent Inconvenience, and being it may come to  
 passe, and oftentimes it doth so come to passe, that  
 from this suddain Immutation, many and more  
 grievous Inconveniencies may arise, though not per-  
 adventure at the first discovered, the most grave  
 Philoso-

Graviores  
 inferre  
 vulnera,  
 dum mi-  
 nobus  
 mederi de-  
 fectus amus.  
 Ambros.  
 2. Offic.  
 2.

Philosopher did judge it to be far safer to tolerate & endure some Inconveniencies, and those not slight ones neither, in a Common wealth (which may be avouched of the Church also which is a kind of a Common-wealth) than in pretence of Reformation either Ecclesiastical or Political to cancel old Laws, & Statutes, & turn all things upside down; Of a far different judgment to those of our times were the wise men of former Ages, whose Rules & Principles were as are here these following *Ἀρχαία ἄνυξαλίστη;* *Malum bene positum non est movendum;* *Imperii medici est pejus malo remedium adhibere;* an Evil well placed is not to be removed; It is the part of an unskilful Physician to apply a Remedy worse than the disease.

XIV. I say in the third place, That although the changing of Laws may seem to be necessary, by reason of some great, and evident Cause, yet it is not to be attempted by the people, without the consent of the Prince, but modestly they are to crave, and patiently to expect it of him; and this may aptly be collected from the *Analogy* of the *Head*, and the *Members*, for how like a monster were it, and destructive to the whole body, if the *Arms*, the *Breast*, or the *Feet* should assume unto themselves the office of the *Head*? This is abundantly enough demonstrated in those things which not long since we declared to you, when we spake of the *efficient Cause* of Laws, *viz.* That the principal Act of Jurisdiction, cannot be exercised but by him only who is the *Head*, and *chief* of the whole Commonalty; Therefore the Constitution, the abrogation, and any Immutation of Laws whatsoever, which are all of them the *principal Acts* of the chiefest Jurisdiction

dition cannot pertain unto the people, unless where the people are Prince, as in a *State Democratical*, but to *him* only, who doth exercise a Sovereignty of Dominion over the whole Commonalty, in a State Monarchical, and who hath the undoubted power of a transcendent Command by himself; In a businesse of so great an importance, the duties of the people are these, sincerely, and openly, but with all due reverence, to present their just grievances to their Prince, and faithfully to lay before him with what present remedies they may cure those evils that oppress them; and humbly to beseech him, that he would be pleased to condescend to the petitions of his Subjects, as he shall judge it to be most safe and advantagious to the Commonwealth, and confirm the grant of them with his Royal hand. And if he being thus petitioned to shall refuse, they are to desist for that time from their purposes, and to be content with their present affairs, and Laws, and that without all murmuring or the least sign of force, until their Prince being thoroughly perswaded by his Council, and Intreaties of some friends; or induced by the arguments of Reasons shall renounce that pertinaciousnesse of his Spirit, and give an open Ear to the desires of his Subjects.

XV. The Fifth Doubt, Seeing that the *Common good* is not only the *End* of the Laws, but of the whole politic Government, Is it lawful out of any foresight or pretence of the *Common good* to change the present form of Government, or to attempt the change thereof, and *how far*, and to whom is it lawful? For Examples sake, Is it lawful

ful for the people to change a Monarchical Govern-  
ment into an Aristocratical, or into a Democratical,  
or on the contrary? A Question of great difficulty, &  
concernment, especially in these times, & manners,  
in which we live. For my part I will faithfully repre-  
sent unto you what I think of it, and will leave  
unto every man the liberty to think what he plea-  
seth; I suppose only what is already granted by  
many, and what cannot easily be denyed, *viz.* that a  
Monarchy by Inheritance, or a successive King-  
dom, is absolutely the best amongst all the forms  
of Common-wealth, and highly to be preferred a-  
bove the other two; This being granted, I think  
in the first place, that the people, if they please,  
may change a Democratical into an Aristocratical,  
or into an Monarchical Government; First, be-  
cause it seemeth to be a change for the better;  
moreover in Democracy, the chief Command is  
in the Power of the people, so that they may de-  
termine of themselves as they themselves please,  
provided that no Injury be done to any man; Now  
it is most certain, that by this Change no Injury  
is done by the people unto any one; It cannot  
be to any other, for no Injury can be done to any  
man in any thing to which he hath no Right, nei-  
ther can any Injury be done herein to themselves  
who of their own accord do make this Change, for  
no Injury can be ever done to a willing Person. I  
think in the second place, that for all these reasons  
the Peers of a Land also may turn their Aristocrati-  
cal Government, into a Monarchical one; For  
it is a change into the better, and by so doing,  
no injury is done to any man; But I cannot so easi-  
ly resolve you this doubt, whether it be as lawful  
for

αὐτοκρατία  
ἢ ἀριστοκρατία

ἢ δημοκρατία.

Arist. 5.

Ethic. 3. 14



for them to convert an Aristocracy into a Democracy, for although they have power to do it, and it may be done by them without any injury, yet it seems not to be a *Commutation into a better State*; Thirdly, I believe, that the Monarchy of an elective Kingdom, may be changed peradventure into any form of Government, but especially into an hereditary and a successive Kingdom, and that for almost the same Reasons above alleged, nevertheless this ought not to be done, unlesse the Kingdom by the death of him that last Reigned be vacant, for otherwise it would be an injury to the present King; And Secondly, it ought not to be done, unlesse by the joynt consent of the Peers of the Kingdom, and People, and of those persons who have the right of electing. I think fourthly, that a Monarchy by inheritance cannot lawfully be changed into an Elective Kingdom, or into any other form of Government, either by the people alone, or by the joynt consent of People, Peers, and King, which is the whole people in their greatest latitude, unlesse peradventure there shall be such a defect in the Royal Progeny, that there is not one of them remaining to challenge the Kingdom due by inheritance to him. The Reasons of this opinion are, First, Because according to our former supposition, it were a change from a better to a worse; Secondly, Because by reason of that exchange, an apparent injury would be done to the lawful Heir; Thirdly, Because that not only the Exchange, but because such a desire, and endeavour, doth seem to be quite contrary to the words of *Salomon, Prov. 24. 21. My Son fear God, and the King, and have nothing to do with them*

them who affect new things. What before I said, I must in this place again repeat, viz. I do not urge this a s too confidently to affirm it, or to cause a disputation with any man in the proof of this particular, if he be of another judgment.

XV.I. The sixth doubt, How may that be understood which so commonly is spoken, *Salus populi est suprema Lex*, The safety of the People is the supreme Law; The reason of the doubt doth proceed from that which we propounded, and proved in the beginning, viz. That the End of Laws is the publick good; From hence on one side it seems to follow, that the safety of the Common-wealth doth depend on the strict observance of the Laws, and on the other side, that all observancy of the Laws ought to give place to the safety of the Commonwealth; And from hence, some who within these few years have brought a new Divinity, and a new policy into the Church and Common-wealth, have no lesse confidently, than perversely collected and suggested, that the Liberty which they call the Right of the Subjects ( for so they interpret the Safety of the People ) is to be preferred above the prerogatives of Kings, or the enacting, or establishing of Laws, and therefore all Regal Power and Authority of the Laws is to stoop unto it. For the resolution of this doubt, you are to know, that all the deceit almost on this vulgar Axiom, doth arise from the Equivocation which lyeth hid in the Terms, especially in that word *People*; For the people being a kind of a Metaphorical Body, may be taken two wayes, as the word *Body* may it self, Collectively as it signifies the whole Commonalty of the Republick, that is both King and Subjects,

and

and *Discretively*, as it signifies the Subjects precisely by themselves, and severed from the King; As when we say the King, and the people; So in the word *Body* sometimes the other *Members* are to be understood with the *Head*, as when we say the *Soul* and the *Body*, And sometimes the *Members* only are precisely to be understood & the *Head* to be taken by itself, as when we say the *Head* and the *Body*.

XVII. First therefore I say, that most precisely and by a very evil Counsel, that is wrested, which is spoken of the people in the first sence to be accommodated to them in the latter. There is no sober man will deny, that the *safety of the people*, that is of the *whole Commonwealth*, as that word comprehends the King, together with the Subjects, is the *supreme Law*; But that the *Safety of the People*, that is, of the Subjects, the King being excluded, is the *supreme Law*, there is no man will affirm it, unless he be a fool, or an Imposter; A fool, if he doth believe what he himself saith, and an Imposter, if he doth not believe it. But if any man will seriously look into the original of this Aphorism, I do believe he will more easily grant, that it ought more precisely to be understood of the safety of the Prince, than of the safety of the Subjects. This saying so tossed up and down in the mouths of all men came to us from the Romans, and was then used by them when their Republick did flourish most of all under a popular State; And there is no great Reason that any man should wonder, that the peoples Safety was the supreme Law with them, with whom the people themselves were the supreme Power; In the Judgment therefore of those wise Antients, who were the first Authors of this Aphorism

ism, the safety of the *supreme Power* was the *supreme Law*, of the people indeed in a *Democracy*, but of a King in *Monarchy*.

XVIII. I say in the second place, it being admitted, but not granted, that this Aphorism is properly understood of the *Safety of the People*, that is, of the Subjects, it is nevertheless perversly wrested to the prejudice of Regal Dignity, which even so doth render its Power more ample and illustrious. In this sence. A King that gives *Laws* and *Statutes* to his people will not be so bound up by his *Laws*, that it shall not be lawful for him, the Safety of the Common-wealth being in an apparent danger, to provide for the Safety of Kingdom and people committed to him by God, even against the words of the Law; Not that it is lawful for Subjects under the pretence of the defence of their liberty to break all the bonds of *Laws* and fidelity, and by an intollerable presumption to trample on the Authority of their King, but that it is lawful for the Prince, in the preservation of his own & his Subjects Safety, to lay aside for a while all strict observance of the *Laws*, & to make use a little of an arbitrary Right, lest by a too unseasonable, and superstitious Reverence of the *Laws*, he may suffer both his own person, and his people that are subject to him, and even the *Laws* themselves, to fall into the Power of his Enemies.

XIX. I say in the third place, it being again admitted, but not granted, that by this Aphorism some licence were indulged to the Subjects themselves, as necessity so requiring, to lay by the *Laws* to provide for the publick Safety, yet from hence that cannot be inferred, which many would

con-



conclude; For it is not lawful for the Subjects, when they find their liberty in any thing to be injured, or when they cry out they are sensible of it, to break through all Bars of Laws and Duty, and without the knowledge of their Prince, to have immediately their recourse to Arms, and to fill all things with tumults & seditions But when the defence of their Princes, & their own liberties, against all forein or domestic Enemies, upon an urgent necessity doth so call them to it, that a pious & a prudent man would make no doubt of it, but if the Law-maker himself was present he would dispense with his own Laws, it is then lawful for the Subjects to have a greater regard of the Common safety, which is the supreme Law, and the end of all Laws, than to be fearful to prejudice any particular Laws, which were therefore made to be subservient only to the publick safety.

XX. The sum of all is, *The safety of the Commonwealth*, that is to say, of the Prince and of the Subjects, is the *supreme Law*, to which all inferiour Laws are so to submit, that present necessity so requiring, it is lawful for the Prince by the prerogative of his own power, yea and it is lawful for the Subjects, the consent of their Prince being according unto reason presumed, to recede sometimes from the words of particular Laws, to assist their indangered Country, and to be careful of its safety as the supreme Law, but so, that unless the will and consent of the supreme power be expressly obtained, or according unto reason presumed, they are not to attempt any thing under the pretence of the publick safety and liberty, but what the Laws do permit them to.

XXI. There are not a few Doubts, that are yet

remaining, which in some manner do pertain  
to this Final Cause, as concerning Privileges and  
Dispensations, and the Relaxation of the obligation,  
in the danger of life, and others of the same nature,  
which unto some may peradventure appear not al-  
together to agree with the End of Humane Laws;  
The Solution whereof I have thought it more expe-  
dient for to deferre unto another time, although ne-  
ver so long, than by too much prolixity, to tire and  
to torment so attentive and so courteous an Au-  
ditory.

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THE



THE

## TENTH LECTURE

In which that most vulgar Speech  
(The safety of the People is the Supreme Law) is more largely examined, and unfolded, that it may more rightly be understood.

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1 TIM. 2. 2.

*For Kings, and for all that are in Authority,  
that we may lead a quiet and peaceable life in  
all Godliness and Holiness.*



At this time and place, if peradventure you do remember it (Courteous Readers) did intend to finish & compleat this Treatise, concerning both the obligations of Conscience, to wit, the *Passive* and the *Active*; In the unfolding of the former, having in the

firstplace, and in a Scholastical manner excussed the *Definition of Conscience*, I was as elabourate as I could be in examining, and discovering that proper, and *Adequate Rule of Conscience*, from the directions whereof, it ought to exercise all, and every one of its *Acts*, both of *Dictating*, and *Judging*. It was then represented to you, that the *Holy Scripture* was the *principal* part of that *Rule* we held forth, but the *Adequate* part was that *Will of God* (which the School-men call the *Will of the sign*) in some degree made manifest to every man, whether, first, by an *inbred light*, by *Practical Principles* preserved in the *Synteresis*, and known by themselves, which the Philosophers call *Common Notions*, and the Apostle, the *Law of God* written in our hearts; Or secondly, by an *inferred Light*, by some external Revelation, partly *extraordinary*, and private, to some single persons, by visions, dreams, &c. at sundry times, and in sundry manners; Partly *ordinary*, and made publick to all mankind in the written word; Or lastly, by an *acquired light*, by conclusions rightly and duely drawn from those *practical principles*, or from the *written word of God*, or from our own meditations, or the Institution of other men.

II. I affirmed, that all these, and every one of them do oblige the Consciences of men, and only these, *absolutely* and *primarily by themselves*, and by their proper virtue: for all these, and these alone do exhibite to us the will of God, who alone of himself, hath an absolute, and a direct command over the Consciences of men; But I gave you to understand, that there were many other things which *Secondarily*, and *relatively*, and by



Virtue of the Law, or the *Divine will* in which they are founded, do in their manner oblige the Consciences; And all of them do agree in this, that they owe all the force of obliging which they have to the *Divine will*, for otherwise the Divine Law would not be the *Adequate Rule* of Conscience; nevertheless they do all differ among themselves, both in the *Species*, by reason of the diversity of the matter, and also in the *degree*, according to the power of obliging. Moreover, there are three degrees of *those* who do thus oblige.

1. The first is of those things whose obligation doth arise from the Authority of another having a right or power, in which number are Humane Laws.
2. The second is of those things whose obligation doth arise from a free act of the proper will, such as are *Vowes*, *Oathes*, *Promises*, and *Spontaneous Contracts*.
3. The third degree is of those things whose obligation doth arise from the intuition of *brotherly Charity*, in which classis is ranked the Law, or the Consideration of *Scandal*, or *offence*.

III. As for the obligation of Humane Laws, I have spoken much more than at the first I propounded to my self, yet it may be much less than the weight of the thing deserved (of which in our daily Conversations there is a most frequent Use) or the Abundance and Variety of those Doubts required, which might cast a scruple into the minds of men; In the resolution whereof I proceeded so far in the former Terms, that having gone over those difficulties which I thought could not improperly be reduced to the *material, efficient, and formal Causes of Laws*, in my last Lecture I came to treat of those which more properly did pertain to their *final Cause*;

*Cause*; where at first having laid this foundation for the whole following Discourse, That the *good of the Commonalty*, or which is the same, that the *publick Peace and Happinesse* is the End of *Humane Laws*; with what brevity and perspicuity that I could I answered to the six following Questions. First, Whether there be any Use, or at least any necessary Use of Humane Laws in a Common-wealth in order to the Common Good? Secondly, It belonging to the Common-wealth that Vertue be revered, and Vices restrained, whether a Law-maker could command all the Acts, and Offices of all Vertues, and prohibit all Vices, and Enormities whatsoever? Which if he were not able to perform, whether he were at least bound to command and prohibit as many as he could of either kind, by Laws which might oblige his Subjects in their Consciences? Whether, and how far it be required to the effect of the obliging of the Subjects, that the Intent of the Law-maker be carried to the publick Good? Fourthly, If the Laws made already shall appear less profitable to the publick, whether, and how far the change of them is either to be attempted by the Prince, or to be urged by the Subject. Fifthly, The *Common good* being the end of Laws, and even of Government it self, whether it be lawful, and how far lawful, for the said Common good, to change the form it self of the whole Government, or to attempt the change thereof? Lastly how that common saying, *The safety of the People is the supreme Law* is to be understood.

IV. These things I thought necessary to repeat more fully to you, that after so long an interruption of Academical exercitations, my whole proceed-

ings in these Lectures, and the order I have observed therein, might better appear unto you, and that I might recall into your memory the heads of those things which having heard before with so much humanity, I justly do believe that in so long an interval of time, you have almost forgotten. You will expect I conceive, and not undeservedly, that I should now proceed in my intended course, and go directly on to those next *Doubts* which yet remain to be resolved; As of those of *Privileges*, of *Dispensations*, and to others which some ways do belong to the final kind of a Cause. I do confess it indeed, and I ought to do it; But my friends do interrupt me, they advise me that the stubborn and intolerable boldness of some men do rather effragitate, that seeing so precisely and so impudently they abuse the Aphorism to the publick ruine, although I expounded it but in my last Lecture in the former Term, yet that I would take it under examination again, and open the genuine sense thereof more clearly and fully than before I had done; This in my Construction was nothing else but in a new pomp of words, to do over that which I had done before, and to the loathing of your Stomacks to give you that meat you before were cloyd with. This desire was not pleasing to me, but they did grow upon me with new importunities to take it in hand again. It will be your humanity to resent and excuse that modesty which I granted to my persisting friends, especially having used such a prevalent Argument to overcome me to it, not doubting but it would be grateful to the most of you, if I should again undertake it.

V. It is therefore my present businessse to declare

clite unto you what is the meaning of that common Axiom, *The safety of the people is the supreme Law*, and how it is to be understood. Some men within these few years, not well imployed, have invented, and brought at last into the Commonwealth a new state of Government, as before they had brought into the Church a new Religion, and as they have earnestly endeavoured under the pretence of *Conscience*, or of *Christian liberty*, to overthrow all the force and frame of the *Ecclesiastick Government*, so under the pretence of *Civil liberty*, or the *liberty of the Subject*, they labour in this confusion of times, and with incredible heat of spirit, and military terrour, to shake, and from the very foundation of it to pluck up the whole Fabrick of the *Government of State*. These as often as they are accused of the Royal Dignity trod under feet, of the despised Authority of all holy Laws, of the disturbance of the publick peace, of an unbridled and horrible tyranny exercised on their fellow Subjects, all barrs of Right and Justice being broken down, of an affected parity in the Church, and in the Commonwealth, all difference of birth, and honours, and States being taken away, and many more such Anabaptistical impieties, they presently defend themselves, and their manners, with this *safety of the people*, as with a Buckler, and think this alone to be preferred to all Laws, Kings, Ordinances, and Customs whatsoever.

VI. From so loose and dangerous an Interpretation of this vulgar Axiom, not only a window, but a spacious door being opened to seditious tumults, and all manner of popular licence; It is manifest that they who defend their horrible wick-



ednesse with this forbidden buckler, do not entertain the pure and genuine construction of that Axiom, but do feign another to themselves, which by an inforced Interpretation, may give some shew of Patronage to their depraved Counsaills, and their Cause; For as often as any man to serve his Avarice, Ambition, Hatred, or Anger shall attempt new designs, and fill all things with Rapine, Blood, and Plunder, he incontinently may pretend the Safety of the People for his nefarious Villanie. Examine I pray you the Annals, and Chronicles of all times throughout the world, both sacred, prophane, antient, modern, exotick, or our own, you shall every where find that the *Catlines*, and *Cethegi* of all times, and places, did constantly practise these things, under the pretence of liberty, and popular safety, so that he may seem to have a Melon in stead of a Heart, (they are *Tertullians* own words) that will suffer himself to be thus Circumvented, and deluded; But whether unwarily, hath this Tempest hurried me, whiles I let loose the reins to my just Indignation? I therefore do contain my self, and that I may appear a Disputant, and not an Orator, I return to the matter in hand.

VII. Where in the first place this is to be considered, what in that vulgar Axiom is meant by the word *Safety*; For if any man finds his dignity, or liberty, affronted, or injured in some small thing, nay, and if it be a great one, he is not presently to complain that he hath endangered, or lost his Safety; For every *Hurt*, or *Blemish* is not directly opposed to the *Safety* of any thing, or person, but the *Ruine* or *Destruction* of it. It is altogether

together the same thing (a due Analogy being reserved) in a body Politick and Republick, as it is in a humane body, and a single person; By reason of the jarring of the contrary qualities in a mans body, because of the defect or excessse of inward Heat, and Cold, and a various Immutation of extrinsecal Accidents, it may so come to passe that a man may hardly enjoy his health, but very often in one part or other of his body, he may endure that, either within, or without, which may be very troublesome to him, it may also come to passe, that by the Stone, the Tooth-ach, or the Gour, or by some other disease in some other part, he may feel an extreme pain, or be so sick in every part that he may lye down, yet in the mean time it may be neither necessary, nor seasonable, to have recourse unto extraordinary Remedies, as if he were in apparent danger of his life, and safety. So in a Common-wealth, we must not presently attempt against the Laws, and Ordinances; We must not gather together a rabble of the vulgar, and raise tumults; we must not presently cry out *Arms Arms* for the safety of the people, as soon as any popular Souldier, or bold Babler, shall complain unto the people, and accuse the Prince, the Peers, the Magistrates, and Judges, or their Ministers, or any one of them, of violating the Laws, doing Injurie, or neglecting their duties, although peradventure they have deserved it. There ever were, and will be under the best Kings, and the best govern'd Common-wealths, some oppressions of the meaner Citizens, proceeding from the abuse of Power, and many other grievances, for the preventing or redressing of

which, no care or industry of the Governours, no severity of the Laws could prevail, for if it shall be lawful for the factious Citizens, as soon as ever they see one or another example of this nature, to despise all Laws and Ordinances, and under the pretence of the *publick safety*, to revenge themselves upon the oppressors by force of Arms; Kingdoms and Common-wealths will never be free from troubles and tumults; Our Saviour saith, *Luke. 17. 1. It cannot be avoyded but that offences will come*, and we must go out of the world, as the Apostle saith, *1 Cor. 5. 10. or seek some Eutopia or Platonick Common-wealth to preserve us*, if we shall make such an Interpretation of the safety of the people, that unless every one of the lowest degree of Citizens be altogether secure from all unjust force, and unrighteous Domination of some Superiour or other, there shall be no publick peace at all. The safety of the Common-wealth is then indeed in danger, when by the incursions of Exotick Enemies, or by the depredations of wicked Citizens, the affairs are brought into so manifest a danger, that unless some timely help be provided, the City and Country undoubtedly will be destroyed.

VIII. We have seen what our Innovators do mean by the word *Safety*; In the next place we are to observe how rightly that word *People* is interpreted by them. The People as St. *Augustine* defines them from the lost books of *Cicero* in his *Repub.* is

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*Cætus multitudinis Hominum juris consensu & utilitatis Communionione Sociatus; A multitude of men associated by the consent of Law and Right, and the Communion of profit; And in this appellation of people*

people, all the Roman Citizens of every Order and Condition were contained; For besides Kings in their first times, and Emperors in their last, the Romans had a threefold degree of distinction; *Patricians, Knights, and the Common people*; But in what a latitude this word is to be received amongst the Latine writers wheresoever it is found, the Reader may collect by the adjoynd circumstances, which for the most part for a most sure argument for this purpose may best be done by those words which are annexed, *viz.* the opposite Terms. The word *People* is taken three wayes by the Roman Writers; First (and of all the most unusual) it is taken for the Common People alone, which was the lowest order of the People of *Rome*, as in that of *Martial*,

*Dat populus, dat gratius eques, dat thura Senatus.*

Where the word *People* being opposed to the Senate, and the Knights, can signifie nothing but the Common-People. Secondly, for both the inferior orders of People, *viz.* the Common People, and the Knights together, the Supreme or Patrician order being excluded; For in the beginning of the constitution of that Common-wealth, the Kings being expelled, the Fathers thought good to retain among themselves, a kind of Prerogative of Honour, and Dignity above other Citizens, and for the signification of it, to separate themselves by that name from the rest of the *Turba* of the People; From whence came those solemn Forms; *The Senate, and the People of Rome*; It seemed good to the Senate, and the People of Rome; in



3. In which the name of *People* doth comprehend all the other Citizens, both Knights, and Common-People, the Senate excepted. Thirdly, it is taken for all the Citizens of all degrees without difference, both *Fathers*, *Knights*, and *Common-People*, for of these three orders, after that Kings desisted, and there were as yet no Emperors, the whole City did consist; And in this sense (for in the whole duration of that Commonwealth, the State was popular) the Roman writers are to be understood, as often as they make mention of the preserving of the *Safety*, *Dignity*, and *Majesty*, of the people.

IX. I have the more diligently expounded these things, not only because the proper significations of many words of this kind do depend on the use of that people, from whom the words themselves are derived to us, but for another twofold Cause; The one, that we suffer not our selves to be deceived and circumvented by a lesse proper interpretation of a doubtful word; The other, that in the bare appellation of the word *people*, there may be no force to the prejudice of him who is Prince of the Commonalty, and the head of the people; Either of which, of what moment they are to our present purpose, you shall presently understand by those things which I am to prefer unto you.

X. I say therefore that this word *people* (as many other words, signifying an aggregate multitude) may be taken two wayes; Either *collectively*, as it signifieth the whole Commonalty of the Republick, that is the Prince and Subjects together, or *discretively* and *precisely*, as it signifieth the Subjects only, and severed from the King; In the re-  
ry

ty same manner, as the Body either implyes the rest of the Members with the Head, or the rest of the Members without the Head; And the appellation of a Family, doth sometimes comprehend all who are within one House, Wife, Children, Servants, and the Master of the Family himself, who is over them all, and sometimes again those only who are under his command, and of whom he hath care; And in the name of an Army, sometimes the General is comprehended with the Souldiers, sometimes he is not comprehended; And the like is to be observed in the words of *Parliament* or *Kingdom*, and other words of the same kind, which signifie indeed a collection of many, but with order and reference to one as their principal, or their Head. Therefore if not with a malignant intent, yet certainly by a most dangerous Error it comes to passe, that that which is spoken of the *people collectively* in the former sense, inclusively to comprehend the whole Commonalty, that is, the Prince with the Subjects, should be so wrested, that it should be applyed to the people in the latter sense, that is, to the Subjects alone, the King excluded.

XI. But you will say, how may it appear to us that the Appellation of people in the first sence, may in that Axiom be understood *collectively* for the King and people, and not *discretively*, in the later sence for the common people alone? I answer, that most manifestly it doth appear by the common use of speaking, and the Analogy of other words of the same signification; In which the most certain rule of Interpretation is, that words *collective* are alwayes to be taken *collectively*, unlessse

lesse the Adjunct which is opposite to it, doth require it. For examples sake, where it is said, 1 Col. i. 18. *Christ is the Head of the Body of the Church*; It is manifest by the Adjunct opposite to it, to wit, the mention of the *Head*, to which the Body is there relatively opposed, that the word *Body* is there taken *discretively* for the other Members of the body, precisely severed from the *Head*; So if any man should say that the General had advanced with his Army into the Fields, or had sent them to their winter quarters, or that the Master of a Family had forbid any belonging to him to go out of his doors at twelve of the Clock at night; Or what is written of *David*, That whatsoever the King did, was acceptable to the people; It is manifest by the Adjunct every where opposed, that in the word *General*, *master*, and *King*, those collective words of *Army*, *Family*, and *Subjects*, are not to be understood *collectively*, but *discretively* and *exclusively*, that is, by the appellation of the Army, the Soldiers are only comprehended, and not the General, and by the appellation of Family, the Servants or Children are comprehended, and not the Master himself, and by the appellation of people, the Subjects are only comprehended, and not the King; The reason is, because the *Opposite*, which is one of the *correlatives*, being adjoynd, doth necessarily imply the word *collective*, answering on the other side, and relatively opposite unto it, to contain precisely its *correlative*, that is, the multitude only annexed and conjoynd to the *Head*, and *chief*, and not the whole Commonalty aggregated as it were from both the *Terms correlative*.

XII. But

XII. But when an *Opposite* is not added which may necessarily carry its signification to the other part of the Relation only, it were incongruous to sense and reason to take the word *collective* otherwise than *collectively*, and in its just latitude, so that it may thereby comprehend both the Terms of the Relations, especially when the speech is concerning *safety*, *profit*, or any other good or advantage which is or may be common to them both; For examples sake, if it were commanded that to morrow the Camp should march because the Army should not be environed by the Enemy, or that Corn should be bought for the present use of a Family, *Orestes* himself would swear that the man was not of a sober understanding, who should apprehend that what was spoken either of the Army or the Family had relation only to the good of the Souldiers, and the Servants, no account or care being had of the General who commanded the Army, nor of the Master who governed the Family; Which is all one as if a sick man being admonished by the Physician to have a greater care of his body for the future, should with a great diligence begin to keep warm his Breast, and his Thighs, and other members beneath his neck, but take no care at all to provide for his head, because the Physician did only put him in mind of his body but not of his head.

XIII. But I come yet nearer to the point in hand, If peradventure a whole company of common Souldiers should affirm that *the safety of the Army was the supreme Law military*, but they had a General who did put them upon such hard service, by his unsufferable commands that unless they



they timely should shake off the yoke of obedience to him, the whole liberty of the Army would be in great danger to be lost, and thereupon from this Principle of asserting their own liberties by force of Arms, they should consult and agree amongst themselves, no longer to obey his commands, but to take away the life of their General; Or if household Servants, (whom the Apostle 1 Peter 2. 18. would have obedient not only to those who are good, and favourable to them, but to those also who are rough and rigorous,) should combine amongst themselves, to refuse his commands as too burthensome, and therefore because too insolently he domineereth over them to drive him out of his house, to seize upon his Keys, Truncks, and all his goods, and to mannage themselves the Government of the Family at their own pleasure, under this pretence only, that *The safety of the Family is the supreme Law oconomical*, There is no man but will confesse but that these wicked and nefarious Counsels, may by some lawful consequence be deduced from these Principles, which Principles being rightly understood are most true and profitable; And yet an egge is not more like unto an egge, than the Arguments of those men, who by pretending the peoples safety fill all things with sedition, are to this wild kind of reasoning, as if (and that very eminently also,) the safety of the General were not contained and included in the safety of the Army; and the safety of the Master in the safety of his Family, and the safety of a Prince in the safety of his people. To be short, we must acknowledge, *the safety of the People*, that is of the King and People together, is the supreme

preme Law, but the safety of the People, that is, of the Subjects, the King being excluded, is not so.

XIV. In the second place I am to add something more; And though I conceive that I have clearly enough proved, that in this Axiom by the word *People* neither the Subjects without the Prince, nor the Prince without the Subjects ought precisely and by themselves to be understood; but both of them conjunctively, yet if any man will more exactly consider either the dignity of the persons, or the original of this Aphorism, he will willingly grant it to be understood more precisely of the safety of the King, than precisely of the safety of the People; For first, that the Kings Majesty is sacred hath not been only most copiously acknowledged by all the Fathers of the Church even at that time when there were no Christian Kings, who have revered them as men second to God, and lesse only than God himself, and have offered Vows, and Prayers unto God for their safety, and have taught that on their safety, the safety and happiness of the whole people did depend; But God himself (as largely may be shown if need required) hath been pleased that abundantly it should be testified in the holy Scriptures; From whence it came to passe, that all good Subjects and endued with a right understanding, in the height, and heat, and the extremest danger of Battel, have judged that the safety of the King alone, was to be preferred above the safety of them all, which as it became good Subjects, those Israelites gallantly professed, who at the time of the execrable Conspiracy of *Absolon*, preserved their fidelity which they vowed to King *David*, 2 *Sam.* 18. 3. And of the same mind

mind were they, who ( not basely flattering a mortal man for their own profit, but speaking according to the Dictates of the Spirit of God ) have called the King the breath of their nostrils, for so that godly Prophet, and sanctified from his mothers womb, the Prophet *Jeremy* speaketh it, *Lamen.* 4. 20. In a most apt signification, That breath which is attracted, and emitted through the nostrils being that vital breath, with which the soul as with a Bond is united to the Body, and which failing, the living Creature must forthwith necessarily expire and perish; His Breath goeth forth, he returneth to his Earth, *Psal.* 146. 4.

*Animus  
Reipubli-  
ca tu es:  
illa corpus  
tuum.  
Senec. 1.  
de clem.  
5. — Ille  
Spiritus  
vitalis,  
quem hec  
tot millia  
trahunt.  
Ibid, c. 4.*

XV. This also is worthy your observation, that the Aniom of which we now treat, hath been brought unto us from the Roman Nation, and then in use with them, when *Rome* did most flourish in a popular state. And there is no reason we should wonder, That the safety of the people was to them a supreme Law, to whom the people themselves were the supreme Power. The *Lanes* were then the *Peoples*, the judgments the *Peoples*, the whole jurisdiction the *Peoples*, the entire Government and autocratical Majesty was the *Peoples*. And from hence it is, that amongst all the Historians, and in *Cicero* also and other Writers of that age, so frequent a mention is made of the majesty of the Roman people, as being in a state *Democratical*, which in a state *Monarchical* is not the *Peoples* but the *Kings*. Therefore, as much as the safety of the People was to them, with whom was the Majesty of the People, which how much it was, by the Aphorism they would it should be testified to the world, so much unto us if we will make use of the

of that Aphorism ( an Analogy in the so different forms of both Republicks being rightly observed, as fit it should be so ) should be the safety of our Kings who acknowledge no other majesty but the Kings, only.

XVI. From these things which have been spoken, I believe it is manifest enough, that neither in the appellation of *Safety*, nor in the appellation of *People* there is any force at all in this vulgar Axiom, as to wrest it to the prejudice of Kingly dignity, unless with the greatest injury that can be done unto it; And if the two other remaining words of it, *viz.*

The *supreme Law* should be rightly weighed, they would acknowledge I believe if they had but any Modesty, or Reason, that nothing can be spoken in this Axiom which is more ample and illustrious to establish the sovereign Power of Kings; For these words the *supreme Law* do suppose that in every

Common-wealth there ought necessarily to be  
somewhere a sovereign Power which is above all

humane Laws positive, to which he ought to look, and by his Authority to take care, that neither by the defect of Laws, or the too superstitious observance of them, the Common-weal-h may receive any damage. And the reason of this is plain enough, for

the wisest Law-maker cannot so foresee all circumstances of events to come, neither can he make such a sufficient precaution by the Laws, as to prevent all those Evils, & inconveniencies which he suspects may come to pass; and this is not by the fault of the Laws, or of the Law-makers, but as *Aristotle* hath excellently observed it, it is by reason of the nature of those things that are to be defined by the Laws.

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16.

Arist. 5.

Exh. 14.

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is provi-

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nt Species

**CRIMINALS**

comp!cific-

renter.

Quincil.

declam.



τι ἀνίσταται  
τὸ πλεονέκτημα  
λαμβάνει  
δὲ τὸ ἐν μέρει.  
Ibid.

Aristot. 1.  
Ethic. 14.

τὸ ἐκείνου  
μὲν δὲ  
οὐκ ἔστι  
ἐν τῷ νόμῳ  
καὶ τὸ ἐν  
τῷ νόμῳ  
καὶ τὸ ἐν  
τῷ νόμῳ.  
Arist. libid.

which being indefinite by Reason of their variety, and uncertain, because depending on futurity, cannot be comprehended within some certain Rules of Limitation. The Law-maker therefore hath discharged his part, if by his Laws he hath ordained those things which are for the most part just, and profitable to the Commonalty, although it may so fall out, as indeed often times it doth, that on some suddain and unexpected Emergencies, those Laws may be defective in some particular cases not foreseen; And in this Case, if there be not a person, or some persons to exercise a kind of an arbitrary Power, there will be no other effectual Remedy to relieve the endangered Country, and provide for the publick safety; And this is the reason why wise men have always determined, and Reason also perswadeth to it, that in exigent points of necessity, Legal Justice ought to give place to Equity, Equity according unto Aristotle being nothing else then the rectifying, or the *correcting of legal justice*, or even of the Law it self, (as presently afterwards he explains that Definition) by supplying its defect in particular cases, in which it comes to pass that by too much generality it falls short of either Justice, or the publick Profit; For it is necessary that Laws should be constituted *generally* out of a respect to those things, which generally, and for the most part are done, but not out of a respect to all those things which may be contingent in *particulars*, in many of which, if Laws were strictly and by a *prescript of words* accommodated, they must necessarily be defective also, and fall short of either *moral Justice*, or of *Common Profit*, or of both of them.

XVII. This being then granted, that the *safety of the*

the People, that is, the publick profit doth require, that there be some Authority in the Commonwealth which is to be above the Laws; and to supply the defects thereof, it will necessarily follow by Consequence, which Aristotle asserteth in his *Aristot. 3. Polit. II.* politicke, that this supreme Authority cannot appertain to any one else than to him alone who is set over the whole Commonalty, and invested with the chiefeft Power. Whether he be a single person, as in a monarchical Government, or many, as in other Forms of Common-wealths: Shall it be lawful therefore now for Subjects, under pretence of of publick liberty and safety, to break all the Bonds, Ordinances, Laws, and Fidelity, and by an intolerable rage of Pride, to tread under their Feet, the Authority of Laws and Princes, and for the Defence of so great a Villany, impudently to abuse and pervert that Aphorism, which those factious men are always boasting of and repeating to one another, *viz. Salus populi est suprema Lex; The safety of the people is the supreme Law*; How comes it to pass, that on the contrary, they will not understand, that even by the very same Axiom it is acknowledged, that the Prince hath a Power even over the Laws themselves; so that it is lawful for him out of the fulnesse of his Power, if necessity compels, and the Affairs admit of no delay for the defence of his own, and his Peoples safety against forein or domestick Enemys, to lay aside for awhile the stricter observation of the Laws, lest by a too superstitious, and too unreasonable Reverence of them, he suffers both himself, and his people, and at last the Laws themselves to fall into the power of his Enemies.

- XVIII. As to that Question, whether a Prince be free himself from the Laws he hath made, & which are confirmed, and approved by the Consent of the People, & received by common Use, and how far he is bound, *ordinarily*, to observe them, I shall hereafter (God willing) give you my Judgement therein; It is now only here demanded, whether it be lawful for him, *without order*, and in *case of necessity*, for the defence of his Country, to do some thing either besides, or against the *Law it self*? That it is lawful for him so to do, and that in good Conscience he may do it, it is first proved by the Examples of the best Kings, and by the Histories of all Nations that have been remarkable throughout the world.
1. And secondly, Reason it self doth dictate it from *the defect of the Laws in respect of the whole*, and from the uncertainty and multiplicity of particular events,
  2. both which but even now I mentioned. And thirdly, those things do sufficiently prove it which are all gedy by *Sam.* on the Right of Kings, *1. Sam. 6.* & which cannot well be interpreted otherwise, although many in vain have attempted so to do. But that the least scruple may not arise, nor remain from any thing which hath here been spoken, and is misunderstood, Give me leave I pray you to call back this so divulged an *Axiom* to its first *Original*; And if I shall not so perform it, that you your selves may confesse, that the *Care of the publick safety*, the Laws sometimes laid aside doth according to the meaning and sence of the *Axiom* it self, depend wholly on the will of the Prince, and nothing at all on the will of the People, proclaim me to grow dark in the clearest light, and that I have hitherto been not the Defendor, but a Prevaricator
  - 3.

tor, and Betrayer of the best of Causes.

XIX. I have declared already, that this *Axiom* was derived from the Romans unto us; I shall now add that which *first of all* (as I know of) is written in the first Book of *Marcus Cicerō de Legib.* But by himself as he affirmeth taken out of the antient Laws of that Nation, and described by him in the very word of the Law it self; Having therefore in the former explained the Laws belonging to Religion, and the worship of the Gods, in his third Book he proceeds to give an account of those which belong to the Magistrates, and Common-wealth. Where amongst other things he hath these words, I must beseech you to give due attention to them, "*Regio Impereo duo sunt: ii q, praeuendo, iudicando, consulendo, Praetores, Iudices, Consules appellantur. Militia summum jus habent; Nemini parent; O-* "*lis Salus Populi suprema Lex esto.* Let there be two in the Sovereign Command, and for their going before, Ruling or Judging and Counselling, let them be called Prators, Judges, and Consuls; Let the chief Right of the Militia be theirs; let them be under none; Let the Safety of the People be a supreme Law unto them; To them, that is, to them that are invested with the sovereign Command, who had the chiefest Power of the Militia, and acknowledged not any Power above their own to which they were to be obedient; That is, to the two Consuls, who although by the Constitution of that Common-wealth did exercise only a yearly Magistracy, yet for that time, they had the chiefest Power over the City, & the greatest part of the world, which was in Subjection to the Roman Empire; Come hither all you, whosoever you are, who amongst these or o-



ther Nations are assertors and Patrons of popular Licence; Read, and: read over again every period weigh every sentence, clause, and point Examine every word, syllable, and tittle. Where will you find, the Prince being unwilling, the least sign of any Power granted to the Subject, either of judging of the safety of the People, or of acting, or determining any thing against the Laws? Doth not the whole course of the words in *Cicero* openly pronounce, that the supreme Authority, which is above all Laws, and the whole Care of the publick safety, doth properly belong to him who hath the Regal Command, and the chief Right of the Militia, and a transcendent Power to be subject unto none?

*Soludem  
Reipublice  
nulli magis  
convenire,  
quam Ce-  
sari.*

*Paulus. l.*

*3. F. de*

*off. praf.*

*vig.*

And that to prove this truth you may have the Consent of the most excellent Writers both Greek and Latin, *Aristotle* doth express the same in these words, 3. *Polit.* 2. Δεῖ τὸ ἀρχόντα, ὃν ἡ πόλις ἐξουσιάζει, ὅς τις πρὸς τὸν νόμον ἀκούσῃ, καὶ οὐκ ἄλλῳ. That is, He who is set over the Common-wealth, whether he be a single person or more, hath the Arbitration and Power of determining those things of which the Laws cannot accurately, *that is*, speak of in particular, because it is no easy task universally to comprehend particulars.

XX. Some peradventure will except against this, and say; It goes very ill with mankind, if the safety of all must depend on the Arbitration of one, when in a case of the highest necessity, it is not lawful for any man to provide for his own and the publick safety without his Counsel. What, if by some sudden and unexpected casualty the affair will not admit

admit the delay of one day? Whiles we are going, counselling, and returning, the Common-wealth may be destroyed, what will you advise us to, if it be necessary in such a straight of *time*, and distance of *place* to expect the leave, and consent of the King? I answer, in this nature, the Subjects may be permitted to act something of themselves, and without the Princes consent, if an urgent and unavoidable necessity doth require, for *necessity* as the Prophet speaks it, *hath no Law*. I deny nevertheless, that from this assertion that may be done which some would have to be done. I say therefore in the first place, that whatsoever right can accrew unto the Subjects upon this assertion, *viz.* That all Laws being neglected they should themselves provide for the publick safety, doth come unto them upon another account, for it can no ways rely on the authority of this present Aphorism as on its foundation which leaves unto the Prince alone the care of providing for the publick safety, and doth not permit it to the people; Again, it is one thing to attempt a thing against the publick Laws the Prince not knowing it, and another thing to do it, the Prince not willing to it, for one of the two may lawfully be done upon due conditions, but the other is absolutely unlawful. I say in the second place, that if the Subjects will attempt any thing in order to the publick safety, *two things* above all other must most precisely be observed, and he who shall neglect either of them cannot defend himself by any excuse of necessity, and how religiously they have observed them, who have been the Authors or Fomentors of the most deplorable troubles in this Kingdom, I forbear in this place

Εγὼ γὰρ  
φημι καὶ  
τομὸν γὰρ  
μη σέβειν,  
Ἐν τοῖσι  
δὲ ἰδοί, ὅτι  
ἀνάγκη καὶ  
ὡν πλὴν,  
Εὐρίπ. ἀρ.  
ἀρ. Stob.

λογ. 1.

10.

1.

1.

2.

In mani-  
festis non  
opus est in-  
terpretati-  
one, sed  
executio-  
ne.

Aquin. 2.  
2 qu. 120.  
art. 2.

certum est  
omnia li-  
bere pro  
patria.  
Quintil.  
declam.  
369.

to make mention of, let them look to that them-  
selves; The two conditions are these; First that no  
thing be done, or attempted to be done, to the pre-  
judice of the Prince, whose person & whose dignity  
it pertains to the publick safety to be most careful  
to preserve inviolable; Secondly, that nothing like-  
wise be attempted against the Laws and Rights of  
the Kingdom, but by the Princes consent, either his  
express consent, where conveniently it may be  
had, or at least *reasonably presumed*; if he be at a  
great distance, and the affair admits of no delay,  
the consent of the Prince is then *reasonably presu-  
med*, when the necessity is so great and evident that  
no wise or sober man can doubt, but if the  
Prince himself were present he would grant  
unto his Subjects a relaxation of that Law.

XXI. These two conditions being observed, un-  
less there ariseth no impediment from particular  
Circumstances, I say it is lawful for Subjects for the  
defence of the *safety of the Prince, & of themselves*,  
if it be against the Invasion of Foreign, or the Insur-  
rection of Domestick Enemies, to look more to the  
common profit which is *the supreme Law*, than to  
the letter of particular Laws, which are therefore  
made to serve the publick profit, and not to pre-  
judice it; The reason is evident, for *middle things*  
are for the *end*, and not the *end* for *middle things*,  
and therefore these *middle things* ought to be sub-  
servient to the *end*, and not the *end* to them; there-  
fore seeing the *publick safety* hath under it the cor-  
sideration of the *End*, and the Laws, but the con-  
sideration of *middle things*, and seeing it is certain,  
that in the Intention of the *Agent*, the *End* is be-  
fore and more to be respected than all *middle things*  
are

*The safety of the People is the supreme Law.*

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are or can be, it must follow, both that the common profit of our Country is to be preferred above all particular Laws, and that rightly it is to be presumed, that the Prince is of the same opinion, who is *Principal Agent* in making of Laws, and therefore whatsoever herein is done in his absence, or to be done, he tacitely doth consent unto it, (provided his own *Dignity* and *Right* being saved) a manifest necessity doth exact it for the publick safety.

XXII. The Histories are full of examples to prove this, but the reason of it being so manifest, I purposely pass them by as superfluous; I will only produce one, but an *Illustrious* one, and worthy to be inserted into the *Annals* of this Nation for the eternal memory of the Gentleman, and which was done also in this age, and in the memory of some here present; It was the remarkable act of the high Sheriff of *Worcestershire*; To put the Laws in execution, and chiefly for the preservation of the publick peace, there is an yearly Magistrate called a high Sheriff, set over all the Shires of *England*, to this Magistrate for the undergoing of so great an Office, there is granted by the Laws of the Land, the power of summoning the trained Bands to assist him as often as need requireth, to go with him, to discover and suppress any Tumults, and Disorders, that may happen in any place of his County, but so, that it is not lawful for him to go with the said trained Bands beyond the Terms and bounds of his own County; After that by the great and wonderful mercy of God the Powder Treason was discovered, some who were conscious  
of



of that Conspiracy, and one or two of the chiefest of them did fly into *Worcestershire*; the high Sheriff, a gallant and prudent man, did follow them as they fled from place to place with the trained Bands, and being come to the uttermost confines of his County, he feared if he should make a halt there, and pursue them no further, by reason of the fear of the Laws, they might escape away, he was therefore so venturous that for all the Law he brought the trayned Bands into the County that was contiguous to it, where having overtaken the Traitors, he reduced them unto his Power, and took along with him the Ringleaders of them, with the rest of that desperate Rabble; He conceived to himself (as indeed he ought to do) if he should thoroughly perform the duty of a good Subject, he could never expresse it in a more honourable service, and in that point of Necessity the more strict observance of the Laws was unseasonable, he was therefore to obey the *supreme Law*, that is to say, *the safety of his Country*, and to disregard all things in respect to the *publick profit*. The Business being thus dispatched according to his own Desire, the wise and active Gentleman, least the Authority of the Laws should be disparaged by his Example, which indeed was to be imputed to Necessity, and being sensible withal to how greivous a Punishment they are lyable in the *Rigor* of the *Law* who are the violators of it, believed he had not done enough to acquiesce in the conscioussnesse only of what he had atchieved, unlesse withal he had made a provision for his safety for the Time to come, and took as much care as in him lay, that no man should

abuse his Example, by ( peradventure ) too bold an undertaking of any new Design. He therefore posts away unto King James of happy memory, and prostrating himself at his feet, he humbly craved pardon for the violation of the Law, and as he deserved, he not only from the most prudent King obtained pardon for the not observance of the Law, but praise for preferring the publick safety above it.

XXIII. To give satisfaction to some friends, I have here (my Auditors) expounded to you a little more largely then my Custome is, what is the sence of that *Axiom Salus populi suprema Lex. The safety of the people is the supreme Law*, and to stop withal, the Mouths of some importunate Men, who to speak with Solomon do force blood from the too much wringed Nose, that is, by misinterpreting a pious saying, and indeed (if it be rightly understood) salubrious to the publick, they perversly render it impious, and destructive unto mankind. To be short the sum of all is this, If some private persons be hurt or injured, If the Subjects have some publick Grievances of which they justly may complain, they must not presently have a recourse (as if the safety of the people were in the extremest Jeopardy) to extraordinary Remedyes, and which are *contrary to the Laws*; But if there be a just fear that the Common-wealth will be ruined, either by forein Enimy, or seditious Subjects, unless something be effected which is not permitted by the Laws, It is then lawful for the Prince by the *Prerogative* of his own Power, nay, it is lawful for the Subjects by the *presumed Will* of their

their Prince (provided nothing be acted to his prejudice, and the present exigence of Necessity so requireth) to recede from the word and sence of particular Laws to assist the endangered Country, and to be serviceable to the safety thereof, as to the *supremest Law*. I shall suddenly proceed to prosecute the rest, as God shall permit and opportunity shall inable me. *The Grace of our Lord Jesus Christ &c.*

Thus far I have committed the Sayls unto the Winds, although in a blustering season, and the face of Heaven being masked with many Clouds, (yet God being my Pilot) I safely proceeded in my intended course, and now I did begin to stand more off to Sea, being resolved if the Times would give me leave, to have reached the desired Port, when behold a suddain and over-powering Tempest did over my head admonish me, that for the time to come it would be very unsafe to adventure further, or to continue ploughing through these unquiet Deeps, I perceived therefore that new Counsels were forthwith to be taken, and unless I would become the reproach and sport of the Winds, I must no longer stay on such a dangerous and such a vaunting Sea; I suddenly therefore tacked about, and timely brought my Ship into the Haven, for it seemed to me more honourable gradually to retreat, than to be beaten back by force, and more profitable for my affairs to live within my own doors with ease and

*umbrage*

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umbrage, than to be seen in the Market place, or on the Theatre, attended with noise, and fear, and envy.

*Hinc eadem FINIS discriminis, atq; laboris,*

*Therefore till Heaven some calmer days shall send,  
The Work, and Dangers, here together END.*

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*THE END.*

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THE END

THE END

THE END

THE END

THE END

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